

IMPROVING THE CONGRESSIONAL PHASE OF
FEDERAL BUDGET PROCESSING

by

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CHAPTER I

INTRODUCTION

Purpose of the Report

The primary purpose of this report is to identify, describe, and analyze those reform measures which have been introduced in the 91st Congress and which relate to the congressional phase of the Federal budget process. Budgetary reform proposals are evaluated, to the extent possible, from the congressional point of view. Using this approach, the report estimates the feasibility of acceptance and enactment of particular proposed changes.

To provide a foundation for the evaluation of current reform legislation, subsidiary portions of this report record a brief history of the congressional phase of the budgetary process, describe current budgetary methods and procedures, identify specific criticisms leveled at Congress, analyze past efforts at reform and discuss major events and legislative actions which have influenced and modified the budget process.

Reform Proposals for the Budget

A large number of serious criticisms are being

directed at the organization and procedures of Congress. An abundant literature is available listing all manner of reform proposals. Changes are being demanded in the seniority system, committee structure and procedure, administrative organization, leadership hierarchy, and the many, nonrelevant duties and responsibilities assigned to congressmen.

While acknowledging the validity and seriousness of many criticisms, practical constraints preclude a complete analysis and evaluation of all reforms currently being proposed. Accordingly, a smaller and more manageable segment of congressional activity has been isolated for research purposes. Analysis, comments and evaluation in this report are restricted to those reform proposals relating to the congressional phase of the budgetary process.

The preparation, authorization and appropriation processes associated with the Federal budget are extremely complex. The budget is a statement of the goals and objectives of the government and it establishes priorities for accomplishment of specific activities and programs. The budget is, simultaneously, a political document, a statement of economic and fiscal policy, a financial management document and a blueprint for forthcoming Federal activities and operations.

The authorization and appropriations phase of the budgetary process has become the subject of increasing

criticism in the news media and literature in recent years. Legislation is pending before the 91st Congress which, if enacted, will bring about a number of changes.

Methods of Evaluating Reform Proposals

Having selected the budgetary process for research and study, the Department of Defense Appropriations Act for Fiscal Year 1970 has been utilized as a research vehicle. Due to its pre-eminence, in the appropriations process, the House Appropriations Committee is singled out for special analysis and comment throughout the report.

A substantial amount of the criticism leveled at Congress and the budgetary process has come from individuals who are not members of the legislature and, thus, have an "outsider's view and bias." Writers from the fields of political science, social science and management science, among others, have alleged that Congress is ineffective, archaic and poses a barrier to progress. These critics maintain that Congress urgently needs reform and suggest a multitude of changes and improvements. A number are referenced in this report.

In addition to the "outside critics," an increasing number of articles and books, authored by members of Congress, have begun to appear on the subject of congressional reform. The thesis of this report is that the most promising

proposals for reform have originated from and must, inevitably, be accepted by this group.

To acquire some insight into reform legislation introduced in the current Congress, and to obtain an informed measure of the degree of congressional support for the various proposals, personal interviews were held with selected officials and staff personnel involved in the appropriations process.

Various offices on Capitol Hill and committee staff members made available copies of printed hearings, committee reports, legislative documents, committee prints, and provided candid commentaries on committee activities relating to proposed reform legislation.

The Congressional Record and the Congressional Digest were extensively reviewed. Whenever possible, selected floor debates and committee hearings were attended to develop a greater appreciation and understanding of the budgetary process.

Prelude to Budgetary Reform

In his January, 1970, State of the Union message, President Nixon stated, "it is a time for institutional review and reform." The President stressed that governmental institutional reforms were needed now and referred to the

1970's as "an age of reform."¹

In addition to the corrective measures required for solving such major problems as pollution, poverty, and crime, is it possible that the President and his congressional audience also envision the beginning of an "age of reform" on Capitol Hill?

There have been indications that the Congress, and especially the Senate, recognizes deficiencies in its present operations and internal structure. One such indication was the establishment of the Joint Committee on the Organization of the Congress. The Joint Committee was assigned the following tasks by the 89th Congress:

. . . to make a full and complete study of the organization and operation of the Congress of the United States and to recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States government, and enabling it better to meet its responsibilities under the Constitution.²

The establishment of this Committee marked the first major congressional effort at reform since 1946, when public and congressional demands for reform finally resulted

¹"State of the Union Address," NBC Telecast, January 22, 1970.

²U. S. Congress, Senate, Organization of Congress, S. Rept. 426 Pursuant to S. Con. Res. 2, 89th Cong., 1st sess., 1965, p. 2.

in the establishment of a similar Joint Committee with similar responsibilities, goals and objectives. The work of the earlier Joint Committee resulted in the Legislative Reorganization Act of 1946. This Act and its reform provisions are discussed later in this report. It is sufficient to note, at this point, that the Legislative Reorganization Act of 1946 was the first major reform since the passage of the Budget and Accounting Act of 1921, creating the national budget system.

The Joint Committee (89th Congress) rendered its report on July 28, 1966. Reform legislation based on the report was first introduced in 1967, and has been introduced in each Congress since that time.

The 1970's may be "an age of reform." Certainly the Congress is acutely aware of the continuing erosion of its power and influence relative to that of the President and the Executive Branch. A privately financed management consultant's study recently reported:

The Presidency continues to be developed and perfected as an instrument for decision, and indeed, the Executive Branch has repeatedly been the subject of constructive analysis, including the Hoover Commission studies and examinations by experienced administrators and academicians who have applied new knowledge and techniques to Federal government administration. The Executive Office of the President has reached a level of excellence as a modern institution facilitating Executive decision. By contrast, Congress has greatly lagged behind the Presidency in developing and facilitating its ability

to decide.³

Recognition of its deficiencies, and the need for reform by some members of Congress, or even by a majority of the members, may not be sufficient to actually legislate change. Many reform proposals have been introduced in Congress since the enactment of the Legislative Reorganization Act of 1946, but such efforts towards congressional reform have been consistently unsuccessful.

Former Senator Joseph S. Clark of Pennsylvania, a strong and outspoken advocate for congressional reform, has stressed that "reform is now more urgent than ever before." The Senator has written:

In this jumble of party organization, some parts of the machinery work effectively and democratically, others do not work at all. The result, however, is control of the inner workings of the Congressional institution by a conservative bipartisan minority coalition I have named the Congressional Establishment - the tight little band of men who, dedicated to the status quo, and determined to maintain their power and prerogative, guard the citadel against the majority will and prevent Congressional reform.⁴

Senator Clark cites a need for a complete re-examination of the rules, procedures, customs and traditions of the Congress in order to update and modernize the

³Dr. Philip Donham and Robert Fahey, Congress Needs Help, (New York: Random House, 1966), pp. 147-149.

⁴Joseph S. Clark, "Coda: Making Congress Work," Reprinted in Congressional Reform: Problems and Prospects, (New York: Thomas Y. Crowell Co., 1965), p. 346.

governmental machinery.

As the Congress, and the country, enter a new decade in the 70's, perhaps the growing pressures for change will prevail. The political climate and public opinion seem to be conducive for the enactment of a modern Reorganization Act. The news media continues to carry criticisms leveled at the "archaic customs and hallowed traditions" of the Congress.

In order to establish a foundation for understanding and appreciating the many facets involved in effecting congressional reform, the following Chapter provides a synopsis of historical developments in the Federal budgetary process. Thereafter, and prior to consideration of specific criticisms and current legislative reform proposals, a survey of major reform legislation and applicable commission reports is discussed.

CHAPTER II

THE CONGRESSIONAL PHASE OF THE BUDGETARY PROCESS

Constitutional Authority

The Congress derives its authority to legislate, to raise revenues, and to expend public monies directly from the Constitution of the United States. Applicable sections of the Constitution serve to establish the "authority" of Congress for enacting legislation, passing revenue and appropriation measures, and exercising appropriate control and oversight over the programs and activities of the Executive Branch.

Art. I, Sec. 1

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Art. I, Sec. 8

Para. 18 The Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all the other powers vested by this Constitution in the government of the United States, or in any department or officer thereof;

Para. 12 . . . to raise and support Armies;

Para. 13 . . . to provide and maintain a Navy;

Para. 14 . . . to make rules for the Government and Regulation of the land and naval forces.

Art. I, Sec. 9

Para. 7 No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

The President of the United States is Commander-in-Chief of the Armed Forces, but his powers and authority are subject to limitation and review by the Congress. The Constitution assigns to Congress the exclusive power to raise armies and provide and maintain a Navy. The Congress is further assigned power to regulate and administer the armed services. The President, as the chief executive, has exclusive power to exercise military command over the armed services in peace and in war, and the President exercises and administers the statutory rules and regulations, relating to the services. Thus, the Congress and the President jointly share responsibility for the armed services. The Congress provides and administers: the President exercises command and control. This dichotomy is somewhat similar to the administrative management/military command relationships in the Department of the Navy. In the Naval establishment, an activity looks to its administrative commander for logistics support and technical direction, and to its military commander for operational control and mission assignments.

The blurring of Executive/Legislative Branch responsibility and authority was obviously intentional, on the part of the authors of the Constitution. The separation of powers, in this manner, though recognized to be somewhat inefficient, was intended as added protection against tyranny by a despotic government. The fear of

tyranny was still fresh in the minds of our early leaders. As a result, the Constitution established a Federal government with limited powers to ensure that ultimate power remained in the hands of the individual citizen. In Congressional Control of Administration, Joseph Harris describes the separation of powers:

The writers of the Constitution of the United States established a separation of powers by providing for a Congress and a President on the same legal plane, then blurred the separation by giving each certain rights to check or influence the activities of the other . . . the Constitution vested the executive power in the President but gave to Congress certain specific functions including authority to provide for executive departments and their officers, to advise and consent to (or reject) the President's nomination to the principal offices, and to provide the funds for the departments to spend.⁵

The Congress began to exercise its powers, as granted by the Constitution, immediately. With the establishment of executive departments, Congress made it clear that only those powers which had been specifically granted to them by law were valid. Executive departments and agencies could pursue only those activities and programs authorized by Congress or the Constitution.

From the earliest days of the republic, it has been the congressional phase of the appropriations process which has provided the most effective means of control and oversight over the executive agencies and departments. By granting - or withholding - authority, to obligate funds of

⁵Joseph P. Harris, Congressional Control of Administration, (Washington, D. C.: The Brookings Institution, 1964), pp. 3-4.

the Treasury, the Congress has retained a position of power and influence.

Before proceeding to an examination of the current organization of Congress and its operations, a brief history is provided of the development of the Executive/Legislative budget process.

The Beginnings of the Executive/Legislative Budget Process

In 1789, the House of Representatives appointed a Select Committee on Ways and Means, which was to consider and report on an "estimate of supplies." However, Alexander Hamilton, the first Secretary of the Treasury, had been granted wide authority "to prepare and report estimates of public revenue and public expenditures," thus, minimizing congressional involvement and control. With strong federalist backing, in the Congress, Secretary Hamilton recommended that appropriations be granted "under a few generalized heads." His request was granted, and this practice was followed until 1795. During this time, pressure was beginning to mount in Congress for the exercise of a stronger voice in government expenditures. Led by Albert Gallatin, the Republicans expressed concern that Congress had abdicated its constitutional responsibilities. In 1795, Secretary Hamilton resigned. The Republicans had gained a majority in the House of Representatives, and the Ways and Means

Committee was quickly re-established. The Committee's first task was to recoup congressional control over appropriations and expenditures -- and leverage over the executive departments -- by insisting that the large appropriation acts be broken down into detailed itemization.

Thus, the conflict, between Congress and the Executive over the matter of detailed itemization of appropriations, as opposed to general programmatic appropriations, is historical. Today, the strong congressional resistance, to the Planning, Programming and Budgeting concept advocated by the Executive Branch, is due, in part, to this same basic controversy. The controversy is not restricted to Congress and the Executive Branch. There have also been differences of opinion within the Congress. In 1789, the House passed a military appropriations bill containing detailed and specific itemization. The Senate refused to agree to the detail and specification, and passed an amendment consolidating all of the appropriations into one general appropriation. The measure was finally resolved in Joint Committee, when the House reluctantly agreed to accept the consolidation. The controversy was temporarily settled, but was far from resolved. These differences in opinion remain, even today. The House of Representatives is committed to the principle of itemization in order to achieve the maximum degree of control and

oversight. The House takes its "control and oversight" responsibilities seriously, and the Appropriations Committee holds tenaciously to its prerogatives for funding of Federal activities and the continuous surveillance of executive departments and agencies.

In 1801, President Jefferson appointed Albert Gallatin (Secretary Hamilton's long-time adversary) to the position of Treasury-Secretary. Secretary Gallatin arranged to have the next message to Congress recommend that "appropriations be in specific sums to every specific purpose susceptible to definition, that transfers of funds from one purpose to another be prohibited and contingency funds be reduced." The Secretary believed that detailed itemization was essential, in order to assure strict accountability for Federal expenditures. His new position, no doubt, influenced him to further caution Congress that:

. . . the legislature could not foresee, in all its details, the necessary applications of monies and reasonable discretions should be allowed to the proper executive departments.⁶

The Ways and Means Committee was made a standing committee in the House, in 1802. The Congress continued its efforts to impose oversight and control over executive agencies and departments by enacting splintered appropriations

⁶Ibid., p. 51.

and rigid, detailed legislation. By 1860, the Ways and Means Committee had become the most powerful and influential committee in the House, and its Chairman was second only to the Speaker of the House in prestige and power. The Committee, as might be expected, resisted all efforts by other House members to divide its work, and objected to the suggested establishment of a separate Committee for Appropriations. The division of authority would necessarily result in a reduction of their power and influence.

Ways and Means was overwhelmed by the increased workload occasioned by the War Between The States. On March 2, 1865, a new committee was formed to review the estimates and report the general appropriations bills. Following the lead of the House, in 1867, the Senate divided the work of its Finance Committee, and established a Committee on Appropriations.

From the very beginning, the House Appropriations Committee was comprised of a conservative and highly dedicated group of congressmen. Members appointed to Appropriations were dedicated to "guarding the Treasury and reducing government expenditures." The goals and objectives, of the House Appropriations Committee and its subcommittees, are described in a subsequent section. It is sufficient to note here that their goals of economy and efficiency, in government,

were not popular with the rest of Congress. Other members resented the Committee's power to curtail and reject money requests. Members became particularly distressed when Federal projects and activities for the benefit of their own constituencies were "cut out and/or cut back," under the watchful eyes of the Committee.

Adding to the burden of the Appropriations Committee was the fact that this was a period of Treasury surpluses in the United States. Thoughts of economy, efficiency and balanced budgets were not popular among members of Congress. Because of this dichotomy of philosophies, regarding the expenditure of public funds, members of the legislative committees conducted continual assaults on Appropriations and its extraordinary powers.

Beginning in 1877, and continuing in 1880 and 1885, the Appropriations Committee was systematically stripped of its authority and powers. The House voted to grant budget review authority to the various substantive committees, which had jurisdiction over the particular activity or program. In effect, the spending agencies and departments dealt directly with their "authorizing" substantive committees for funds. The result of this arrangement was predictable. Federal expenditures increased rapidly. There was no coordinated control or coordinated

review of the Federal budget by Congress, or by the Executive Branch, for that matter. Splintered responsibility, for appropriations review and approval, continued until the passage of the Budget and Accounting Act of 1921. The Budget and Accounting Act provided for a single House Appropriations Committee, which would be responsible for all money measures. The House again tried to gain control over Federal expenditures and executive activities and programs.

This review, of the historical development of the Executive/Legislative budget process, has covered the period from 1789 to 1921. The present arrangement and structure of committees and subcommittees has remained basically unchanged since 1921. Although the Legislative Reorganization Act of 1946 attempted to make certain refinements and improvements in congressional methods and committee procedures, these efforts were largely unsuccessful.

With this background, a review of the current organizational procedure for authorization and appropriation of the Federal budget is appropriate.

Organization of the Congress
Committee/Subcommittee Structure

At the forefront of most evaluations of Congress,

and its procedures, are allegations of inefficiencies in and condemnations of the committee system. Generally, this type of complaint originates outside of Congress, but, there have been occasions when an author or reporter has been able to quote a Congressman or Senator uttering his disenchantment and dissatisfaction. Before describing the specific proposed reform measures, relating to the committee and subcommittee structure, a closer look at the committee system may be valuable.

Criticism of the committee structure is not new. Woodrow Wilson referred to committees as "little legislatures," and described the process of government as "a government by standing committee." The main objective of his remarks was to encourage reform of Congress. The reform proposed was to be accomplished by changes in the committee system.⁷

It is generally conceded that the majority of work of Congress is performed in the committee/subcommittee environment. Bills, reported out of committee, are subjected to only superficial review by the parent chamber. This review is slight in comparison to the detailed and exhaustive work required in the preparation of the bill. Egger and Harris provide confirmation, in The President and Congress:

⁷Woodrow Wilson, Congressional Government, (Boston: Houghton Mifflin Company, 1885), p. 89.

The real business of Congress is transacted in its Committees; what takes place on the floor is normally the ratification, without significant change, of what has been decided in the committees.⁸

The tremendous workload precludes individual congressmen from assuming a generalist role in legislative matters. Members must be content to achieve a degree of specialization in certain, limited fields and to rely on their fellow members for expertise and counsel in other areas. This is the principle of reciprocity, which most members of Congress find indispensable. The House is able to cope with its workload through specialization.

Congressional committees are powerful and function for the most part as autonomous units. Autonomy is not absolute, however. The committee is still responsible to its parent body. But, it can enjoy a great amount of independence in its day-to-day operations. Its independence and autonomy are threatened only when the committee members fail, in some drastic way, to live up to the expectations of the parent body. If the committee members' conduct warrants, either individually or collectively, the parent body can impose disciplinary sanctions. Sanctions may involve failure to provide support on the floor or organized opposition

⁸Rowland Egger and Joseph P. Harris, The President and Congress, (New York: McGraw-Hill Book Company, Inc., 1963), p. 57.

to a committee report or bill. More serious sanctions might involve stripping the committee of some of its powers and/or limiting its legislative jurisdiction.

Defeat on the floor, in either body of a committee-sponsored bill, results in a loss of prestige and influence for the committee and its members. A committee will avoid defeat on the floor, if at all possible. Avoidance can include intentional failure to report out a measure that is given little chance of passage. Legislation of this type is re-worked and re-written exhaustively, until such time as it is given a good chance of being enacted. Most battles over legislation are conducted in committee. Seldom are differences brought to the floor. This is especially true in the House. And it is especially true within appropriations committees.

The committees hire their own staff personnel, and establish their own rules of procedure. The committee meets at the chairman's call, and meetings proceed at a pace satisfactory to the members. Most important work takes place in "closed" or "executive" sessions. Again, this is especially true in the House. All House Appropriations Committee hearings are "closed." Accordingly, the proceedings of the committees are often kept from public view. The "closed" meetings aid in the "socialization process" of

members. Committee and subcommittee unity is enhanced. "Closed" meetings facilitate open and candid discussion of pending legislation. The members can search for consensus or compromise, rather than create a majority/minority split over a contested solution. When the solution is subsequently reported out of committee, members usually rally in support of the report and its recommendations. Minority reports are rare in the House, and such reports are especially rare in the House Appropriations Committee. This appraisal is substantiated by The Congressman, His Work as He Sees It:

The influence of committees in the legislative process is bolstered by the practice, particularly prevalent in the Appropriations Committee, of confining efforts to defeat or modify a proposal to activities with the committee itself. Once the battle has been fought and resolved there, those in the committee minority often do not press their case on the House floor. The emphasis is on closing ranks and presenting a united front.⁹

The committee system and infra-structure help to satisfy a member's needs for power, prestige, recognition and respect as an individual. In the smaller units provided by the committee/subcommittee structure, the member can perform a meaningful role. By hard work, and achieving a degree of specialization in a particular field of interest, the member can earn respect, influence, power and a personal

⁹Charles L. Clapp, The Congressman - His Work as He Sees It, (Washington, D. C.: The Brookings Institution, 1963), pp. 213-214.

sense of satisfaction.

The committee system is important to individual members of Congress. Any reform measure, to be successful, must take proper cognizance of the personal needs and goals of congressmen. It is, at best, difficult for a member to achieve his personal goals or to perform as an individual in the larger, parent body. In the House, he must compete with 435 congressmen for the floor. But, members can find meaningful work, an individual role, solidarity, trust, respect, and high esprit in the committee/subcommittee environment.

An integral part of any discussion of the committee system is a recognition of the power and influence of committee chairmen. All committee chairmanships are prestigious positions. However, pre-eminent among the committee chairmen is the Chairman of the House Appropriations Committee. The latter is usually accorded a position of influence, second only to that of the Speaker of the House.

A review of the duties and authority serves to establish the wide-ranging scope and power of the committee chairmen. The chairman calls committee meetings and schedules the order of business. As presiding officer at meetings, he recognizes members who wish to speak or to question witnesses. The chairman decides on the order in which bills will be

taken up in committee. He controls and directs the committee staff. An important power is the control over subcommittees. The committee chairman establishes subcommittees, selects subcommittee members and appoints the subcommittee chairman. He determines the scope of legislative jurisdiction to be assigned to the subcommittee. The committee chairman approves requests for member travel on committee/subcommittee business. When bills are reported out of committee, the chairman acts as floor manager. Should a Conference Committee be necessary, and such a reconciliation is invariably necessary for appropriations measures, the chairman serves as the senior member of the House/Senate delegation.

To become a committee chairman, a legislator must have served continuously on a particular committee longer than any other member of his party. He must, of course, be a member of the majority. This seniority principle has often been criticized in the news media and literature. But, there does not seem to be a great amount of support for changing the system within the Congress. Congressmen apparently believe that the present system is superior to the proposed alternatives, which may prove to be even more dysfunctional. The seniority principle serves to promote stability and a degree of conservatism within Congress. Critics of the seniority system complain that the chairmanships are not assigned on the basis of talent, ability or

constituency representation. These critics maintain that winning a chairmanship is simply a matter of endurance. Though endurance, alone, may not be considered a sufficient virtue, surely it is a positive indication of political attractiveness and competent performance, as registered at the election polls by the member's constituents.

Although subjects of specialization and reciprocity have already been briefly defined, their importance, especially in the House, provide the basis for further discussion.

The tremendous volume of work, placed on Congress, has forced a formal sub-division of the legislative effort. The sub-division has been accomplished by forming numerous subcommittees. As previously discussed, most of the work is performed at the subcommittee level. The review of bills, by the full Committee, is usually perfunctory and superficial. Similarly, the measures are not debated at length on the floor of the House.

A large increase in the number of subcommittees came almost immediately after passage of the Legislative Reorganization Act of 1946. This Act reduced the number of standing committees. The decrease, in standing committees, resulted in creating a wider legislative jurisdiction for those remaining committees. The expanded jurisdiction, and increasing workload, made the sub-division of labor inevitable.

Congressmen manage to cope with the legislative workload by specializing in a particular area; then they rely on congressional colleagues for aid and advice in determining a position on proposed bills or subjects, which are beyond their specific fields of competence and knowledge.

In describing the principle of reciprocity and the deference to recognized specialists, Richard Fenno, Jr. writes, as follows:

Only by specializing can they (Congress) unearth the volume of information necessary for the intelligent, critical screening of budget requests. Only by developing their own expertise can Committee members successfully counter the battery of experts sent down by each executive agency to defend its budget.¹⁰

The specific details of the selection process, for membership on congressional committees, and this process does differ between the two political parties, is not discussed in this report. However, a word concerning the philosophy of selection criteria, as between the appropriations committee and the substantive committees, is considered germane and appropriate. For example, the House Appropriations Committee is formed deliberately with members who are disinterested in the programs that they will vote to finance.

¹⁰Richard F. Fenno, Jr., The Power of the Purse - Appropriations Politics in Congress, (Boston: Little, Brown and Company, 1966), p. 162.

On balance, Appropriations Committee members tend to be negatively motivated toward government spending, economy minded and relatively free from spending pressure by their constituencies.

The substantive committees, in contrast, are often formed with members having personal, ideological and/or constituency interest in the particular subject area. The substantive committee members are more often strongly oriented toward program support, continuation and growth in the favored areas.

The patterns of committee member selection criteria reduce to: (1) constituency or personal interest, or (2) no personal or vested interest in the subject area. Obviously, the latter criterion is more compatible with the "budget-cutting" role of House Appropriations Committee members. The following quote, from the Congressional Quarterly, though somewhat dated, substantiates the point:

On the basis of a 1960, district by district analysis of military installations, 3 of the 5 members of the Military Construction Subcommittee, and 7 of the 14 members of the Defense Department Subcommittee, were without a single military installation in their districts. The average number of military installations per member of the latter subcommittee was 1 1/2; whereas, the average number per member of the authorizing committee - the Armed Services Committee was 3.¹¹

¹¹Congressional Quarterly Service, Congressional Quarterly, (Washington, D. C.: Congressional Quarterly Service, March, 1961), pp. 463-478.

The committees and subcommittees do not restrict their efforts to the legislative process. After enacting legislation, members assume the tasks related to exercising oversight and control over the executive agencies and departments. Appropriations Committee members are particularly interested in the conduct of programs and activities for which they have provided funds. In this regard, Joseph Harris writes:

. . . the powerful and hard-working House and Senate Appropriations Committees of recent years, which, acting through subcommittees, not only systematically and minutely enquire into the administration of policies and programs when they review the itemized budget requests of all executive agencies, but also exercise continuing surveillance over agency activities through the year.¹²

Discussion, thus far, has centered on the House of Representatives and its committee structure and performance. Turning to the Senate, the reader will recall that the Appropriations Committee was established, in 1867. The Appropriations Committee was directed to provide financing to Federal programs and activities as such programs and activities were authorized by the Congress. The Senate Appropriations Committee was to ensure economy and efficiency in Federal programs through continuous oversight of the Executive Branch. Unlike the House, where membership on

¹²Harris, Congressional Control, p. 47.

the Appropriations Committee is exclusive, the Senate enjoys substantial overlapping of memberships between committees. In the House, membership on Appropriations, Rules, or Ways and Means precludes membership on any other committee, except special or joint committee assignments. As a result of service on both the substantive (or authorizing) committees and the Appropriations Committee, Senators tend to lean toward program support, in lieu of economy, efficiency and reduced expenditures. This dual membership serves to reduce the conflict between substantive committees and the Appropriations Committee. These inter-locking memberships require a great deal of time, however, and the Senate is unable to conduct a detailed review of legislation. The Senate is forced to take an incremental approach. Since it usually acts after the House, the Senate can restrict its attention to appeals from House action. Senate consideration of appropriations requests is less extensive, less thorough and less time-consuming than that in the House.

Congress is apparently satisfied with the committee/subcommittee structure. The esprit, solidarity and integration of committee members have been primarily instrumental in warding off congressional reform over the years. This has been, and is today, especially true in the House. Most

reform proposals would effect a redistribution of power. Any such redistribution would, at least partially, destroy the present structure of authority and influence. Richard Fenno, Jr. describes committee integration and resistance to reform proposals:

. . . the internal integration of this Committee (Appropriations) helps to explain the extraordinary stability, since 1920, of appropriations procedures - in the face of repeated proposals to change them through omnibus appropriations, legislative budgets, new budgetary forms, item veto, Treasury borrowing, etc.¹³

And again citing Fenno, here from Power of the Purse, a vote of confidence in the committee system:

Most convincing, perhaps, is the simple fact that, despite repeated proposals to alter the basic House-Committee relationship, it remains, in 1965, virtually as it was mandated in 1920. Forty-five years of reform ideas, agitated for both in and out of the House - the legislative budget, the omnibus appropriation bill, the item veto, the Joint Committee on the Budget, the alternate budget year, etc., have virtually come to naught in the chamber.¹⁴

In summary, the House, in its committee structure, is more of a working organization. The House considers legislation, in detail, and members become specialists in particular areas of governmental activity. Committee

¹³Richard F. Fenno, Jr., "The House Appropriations Committee as a Political System: The Problem of Integration," The American Political Science Review, LVI (June, 1962), pp. 310-324, reprinted in Congressional Reform: Problems and Prospects, Edited by Joseph S. Clark, (New York: Thomas Y. Crowell, 1965), p. 274.

¹⁴Fenno, The Power of the Purse, p. 46.

membership is limited in the House. Members may serve on only one of the major committees (Appropriations, Rules and Ways and Means). Congressmen, in contrast to Senators, have a limited constituency and local interests and parochialism are more often factors of consideration. The Senate has a national interest and national outlook on legislation.

The degree of floor debate, in the two bodies, differs markedly. The House drastically limits debate. This is considered a necessity in the House due to the larger membership. The Senate, on the other hand, enjoys almost unlimited debate. The smaller body (100 members as compared to 435 in the House) can afford the extravagance of unlimited debate without apparent difficulty. Although many consider the often-used practice of filibustering as dysfunctional, the Senate has not seen fit to adopt rules to limit the right of debate or to make cloture simpler to invoke.

The following Chapter discusses major reform legislation and commission reports which have influenced the budgetary process.

CHAPTER III

SIGNIFICANT REFORM LEGISLATION AND COMMISSION REPORTS

The Budget and Accounting Act of 1921

In the preceding Chapter, a brief history of the Executive/Legislative roles in the appropriations process was given. Historical events and legislative milestones, which influenced these relationships, were described. This history revealed that there had been little change in the budgetary process since the earliest days of the republic.

However, growing pressures for change and reform were being demonstrated in the private sector as well as in Congress. These pressures eventually led to the passage of the Budget and Accounting Act of 1921.

Resentment toward old traditions and institutions in Congress erupted in a revolt against the autocratic rule exercised by the Speaker of the House. In 1910, the Speaker of the House was systematically stripped of much of his power. As a result, the standing committees, and their chairmen, assumed greater authority. There were many factors which led to this revolt and several major changes, in House structure and committee procedure, followed. However, detailed treatment of these causative factors, and

the changes which followed, are beyond the scope of this report. The point to be made is that the Congress was in a mood for reform, which was a reflection of public sentiment and the mounting pressure for reform.

Mention has been made of the increased Federal spending, which followed the decision to distribute appropriations responsibilities among the various substantive committees. Since the late 1800's, Executive Branch departments and agencies had submitted appropriations requests directly to the substantive committee having jurisdiction over its particular programs and activities. Spending estimates and requests, for funds originated by the departments and agencies, were routed via the office of the Secretary of the Treasury. The Secretary, however, was not authorized to change, modify or revise them. After several years of increasing deficits, Congress decided to shift responsibility to the President for balancing the budget and ending the "gross extravagance." Congress passed the Sundry Civil Appropriations Act on March 4, 1909. The Act charged the President with responsibility for reviewing both appropriations requests and estimates of revenue. In discharging this responsibility, the President was to recommend reduced spending or increased revenues, from taxes or loans, in order to fund unavoidable deficits.

The President did not waste time in exercising his

new authority. Executive Branch department heads were directed to review their respective bureau and offices' budget submissions, prior to congressional action. Passage of the Sundry Civil Appropriations Act was the first move toward enactment of legislation providing for a unified national budget.

On March 8, 1911, the Commission on Economy and Efficiency was established by President Taft. In submitting the Commission report to Congress, in 1912, President Taft requested that a national budget system be adopted. Congress did not respond to the President's recommendation. However, the concept of a national budget had aroused a great deal of public support and remained a popular issue. In 1916, reacting to increasing public pressure, both major political parties included a national budget system plank in their respective platforms.

In 1919, the House appointed a Select Committee on the Budget to consider existing financial system problems and to propose legislation for a national budget system. The Select Committee reached agreement at the outset that such a system was both desirable and urgently required. The lengthy discussions and hearings, which followed, involved decisions as to the type of agency to be established to operate the national budget system. The Select Committee questioned whether the national budget should be prepared

by the Office of the President or by the Treasury Department under Presidential direction. The Select Committee urged the establishment of an independent office or agency to audit the budget/expenditure process. This office was to be responsible directly to Congress; was to help strengthen congressional control over the appropriations process; and, was to serve as a counter-balance to the proposed Bureau of the Budget. The establishment of the General Accounting Office with a Comptroller General resulted from these discussions and hearings.

The Select Committee reported its findings and recommendations, and the bill was passed, overwhelmingly, by the House of Representatives.

The Senate, being currently involved in its consideration of the Versailles Treaty, delayed action on the bill for a year. In 1920, the bill was passed by the Senate, and the President was granted authority and responsibility for preparing a unified national budget for the Federal government. But, the national budget system was not yet to be! President Wilson, though in favor of the budgetary system, vetoed the bill. The President objected to provisions, which had been written into the bill, relating to the authority for removal of the Comptroller General. He considered these provisions to be an affront to the Chief Executive, and vetoed the bill on this basis.

The following year, 1921, President Harding signed the measure after the controversial removal provision had been changed from a required "concurrent resolution" to a "joint resolution." With the President's signature, the bill became the Budget and Accounting Act of 1921.

① The Act authorized the President to prepare and submit an annual budget covering revenues and expenditures for the last completed fiscal year, estimates for the current fiscal year, and the requested program for the upcoming fiscal year. ② The Act established the Bureau of the Budget to assist the President in the preparation of the Federal budget. At first located in the Treasury Department, the Bureau of the Budget was transferred to the Executive Office of the President, in 1939. In preparing the annual Federal budget, the Bureau of the Budget was authorized to "assemble, correlate, revise, reduce, or increase the estimates of the several departments and establishments."¹⁵ The relationships between the various Executive Branch departments and agencies and their corresponding substantive committees in Congress would never again be the same.

Enacted on June 10, 1921, the Budget and Accounting Act of 1921, came 132 years after the signing of the

¹⁵Congressional Quarterly Service, Federal Economic Policy, (Washington, D. C.: Congressional Quarterly Service, 1968), p. 10.

Constitution. The Act still did not contain any changes in the organization and procedure of Congress for reviewing and approving appropriations legislation.

Several changes did occur, however, both in the House and the Senate. The House, in 1920, adopted a resolution providing for the re-assignment of all appropriations bills to a single appropriations committee. This was an effort to recapture congressional control and coordination over money bills. In 1922, the Senate also recreated a single Appropriations Committee. But, the re-establishment of the single appropriations committees, in the two bodies, did not have the full anticipated results. The President's unified budget was still broken down into numerous pieces and assigned to various subcommittees for review, hearings and recommendations to the full Committee. The piecemeal and fragmented review process continued as before and the budget was not reviewed as an overall financial plan by Congress.

As a result of their restored authority, the conservative and economy-minded House Appropriations Committee did manage to slow the government spending rates. As the period was one of increasing prosperity and budget surpluses, there was little congressional support or interest in economy and efficiency in government spending.

Congress continued to fragment the overall financial

plan of the President. The subcommittees continued to function as autonomous, independent units subject to little control or coordination by the full committees and parent bodies. James MacGregor Burns, writing in Presidential Government, evaluated the effort to re-establish a single, coordinated committee for appropriations review:

The congressional effort to integrate its own appropriation activities was largely abortive; especially in the House, the new Appropriations Committee spawned subcommittees that operated with almost the same mutual tolerance and independence as had the separate appropriations committees before 1920.¹⁶

In short, the Budget and Accounting Act of 1921 most certainly made the Office of the President stronger in budgetary matters in comparison to Congress. The fear, previously expressed by the Select Committee, that this would happen, proved to be justified. The General Accounting Office was originally established as a counter-balance to BOB to maintain the status quo. However, Congress has been accused of negligence in its use of this agency, and specifically, the House Appropriations Committee has resisted greater use of GAO. The Appropriations Committee, on the contrary, has acted to block increased activity on the part of GAO by denying that agency certain requested funds. The

¹⁶James MacGregor Burns, Presidential Government: The Crucible of Leadership, (Boston: Houghton-Mifflin Company, 1966), p. 71.

widely reported matter of withholding funds, which were requested by GAO to implement "expenditure accounting" in the government, is an example. The Senate supported proposal for "expenditure accounting" has ostensibly been stalled in the House Rules Committee, but, it is generally conceded that strong pressures from the Appropriations Committee have helped to keep the measure off the floor in the House.

The Legislative Reorganization Act of 1946

The next major reform legislation was the Legislative Reorganization Act of 1946. A Joint Committee on the Organization of Congress had been established and charged with the responsibility for reviewing congressional procedures and making recommendations for improving and refining control and oversight by the Congress over the Executive Branch agencies and departments.

Although the enabling resolution which created the Joint Committee had placed severe restrictions on the scope of its investigations, the resulting report acknowledged many deficiencies in congressional procedures. The Joint Committee observed that Congress had not adequately equipped itself in order to cope with the pressures of the executive departments and agencies for larger appropriations. The Joint Committee made many recommendations, including the

hiring of larger congressional staffs and adopting a Legislative Budget.¹⁷

The Act did authorize larger congressional professional staffs, as had been recommended. Passage of the Legislative Reorganization Act of 1946 marked the establishment of the congressional staff system. The increased staffing of committees was an effort on the part of Congress to counter the rapid growth and increasing power of the Executive Branch. This growth and power, relative to Congress, had been especially pronounced following the Budget and Accounting Act of 1921.

Even though congressional budget decisions are, in the final analysis, political decisions, few would disagree that an experienced professional staff can provide invaluable assistance to Congress. Thus, though political, decisions can be more rationally determined as a result of broader knowledge.

As Federal activities and programs increase and expand, Congress has sought to maintain its control over Executive Branch operations, and most particularly those activities which are politically sensitive. Since the Legislative Reorganization Act of 1946, and the provisions

¹⁷U. S. Congress, Senate, Joint Committee on the Organization of Congress, Report to Accompany the Legislative Reorganization Act of 1946, S. Rept. 1011, 79th Cong., 2nd Sess., 1946, pp. 1-2.

for additional professional staff, the Congress has been better able to increase its influence and control over Administration activities and operations.

Contrary to the actions of most congressional committees, the House Appropriations Committee refused to increase the size of its staff. Many reasons have been advanced for this refusal, but the following points summarize the rationale:

1. Increased staffing was denied by the seniority structure. The senior members of the Appropriations Committee enjoyed adequate staff support already and did not appreciate a need for additional staffing for junior members.

2. The Appropriations Committee members consider their proceedings highly confidential. In their quest to keep these proceedings confidential, they wanted to restrict information to members only. In effect, they felt that they could not trust or control a larger professional staff. This idea was also advanced as a reason for the Appropriations Committee not making greater utilization of the General Accounting Office.

3. The increased numbers of professional staff may come to compete with the Executive Branch as a bureaucracy; the staff might become too independent and attempt to usurp the legislative role.

The Legislative Reorganization Act of 1946 also provided for a Joint Committee on the Legislative Budget. The Joint Committee was to meet early in each session of Congress for the purpose of considering the President's budget as a whole. After appropriate review of the overall financial plan, and in consideration of current economic conditions and fiscal status, the Joint Committee was to establish an annual ceiling on appropriations and expenditures for the government. The Legislative Budget, though a commendable effort on the part of Congress to effect an overall review of the President's financial plan, was doomed to failure.

In 1947, the Joint Committee on the Legislative Budget did reach agreement and reported a ceiling for appropriations and expenditures, but the House and Senate failed to reach agreement on the Committee's recommendation. Again, in 1948, a ceiling on appropriations was reported out by the Joint Committee. Neither the House nor the Senate enforced the recommended ceiling. After the frustration of 1948, the Joint Committee became inactive. Section 138, of the Legislative Reorganization Act of 1946, the Legislative Budget concept, is still good law. This section has not been repealed or amended.

The Legislative Budget concept had some active support in Congress, especially in the Senate, and this

support was used to garner acceptance of the Omnibus Appropriations approach in 1950. The Omnibus Appropriations proposal provided for all general appropriations measures to be incorporated into one act. The procedure was voluntarily tried in 1950, but the appropriations measure did not pass the Senate until August 4, of that year, and was not signed into law by the President until September 6. The new procedure was blamed for the delay in passage. In 1950, the Korean War served to make the Omnibus Appropriations Act obsolete by the time of its passage. The Defense Department had already begun to propose large supplemental appropriations measures in consequence of the War.

The President objected to the Omnibus Appropriations concept. He did not have power to reject parts of the measure, without rejecting the entire bill. This is the so-called Item Veto, which Congress has not deemed appropriate to extend to the President.

The Omnibus Appropriations approach and the Legislative Budget have not been tried again. Congress has not found an acceptable way to review the President's financial plan for estimated revenues and expenditures in one piece.

The impetus behind passage of the Legislative Reorganization Act of 1946 was to, once again, recapture congressional control over executive departments and agencies. The House also reflected the general public's demands to

reduce Federal spending, promote economy and efficiency in government and strive for a balanced budget.

As briefly mentioned earlier when the committee/subcommittee structure was being described, the Legislative Reorganization Act of 1946 consolidated and reduced the number of standing committees. Standing committees were reduced from eighty-one to thirty-four. In the House, the number of committees was reduced from forty-eight to nineteen. In the Senate, the number reduced was from thirty-three to fifteen. With the reduction of standing committees, the remaining committees were given wider jurisdiction and authority for legislation. In order to cope with the increased workload, sub-division of labor became a necessity. Subcommittees blossomed with added benefit of special authority, influence and power. Prestige and status of subcommittee chairmen and members soared, but the net effect was to the overall disadvantage of Congress from the standpoint of information flow, representation of constituents, and coordination of effort.

In summary, the Legislative Reorganization Act of 1946 was evidence that Congress did recognize its weaknesses and indicated a serious attempt to correct some of these deficiencies. The Act charged the Committees on Government Operations with responsibility for all legislation relating to budgeting and accounting measures, other than appropriations, and for exercising continuous surveillance

over the execution of budgeting and accounting laws. Past efforts of the Senate Committee and current efforts by both houses are described subsequently.

Though not strictly a budgetary reform effort, the Employment Act of 1946 must be noted. This Act established the Council of Economic Advisors in the Executive Office of the President. The Council of Economic Advisors completed a "troika" of Presidential advisors, consisting of the Chairman of the CEA, the Secretary of the Treasury, and the Director of the Bureau of the Budget. The "troika" shares responsibility for advising the President on economic and fiscal policies for the Federal government.

The Employment Act of 1946 also established the Joint Economic Committee in Congress. This Committee was originally called the Committee on the Economic Report. The Joint Economic Committee has provided the Congress with a broader perspective on national economic policy and the economic implications of the Federal budget. The Committee was not originally, and is not at present, formally included in the congressional budget authorization-appropriation process. The JEC performs an educational function, with its hearings and testimony from various public and private economic officials, for both the public and Congress.¹⁸

¹⁸Reuben E. Slesinger and Asher Isaacs, Business, Government and Public Policy, (New York: D. Van Nostrand Company, Inc., 1968), pp. 212-218.

Notwithstanding the "reform activity" of 1946, Congress has altered little its methods and procedures for control over Executive Branch spending. Today, neither the Senate nor the House successfully performs any coordinated review of appropriations legislation. The primary obstruction to such a coordinated review is the traditional appropriations process:

. . . the major impediments to effective, consistent consideration and determination of broad fiscal policies by Congress reside in the structure and methods of the appropriations process itself.¹⁹

While there have been few changes in the congressional phase of the budgetary process, there have been many changes in the executive phase. Improvements and refinements in the executive phase have resulted, in large measure, from the several Presidential Commissions, which have critically examined Executive Branch methods and procedures. These commission reports are analyzed in the following section.

The First Hoover Commission (1949)

In February, 1949, the Commission on Organization of the Executive Branch of the Government (First Hoover Commission) reported its findings and recommendations on "Budgeting and Accounting" in the Executive Branch. Though no recommendations were included, which would change congressional

¹⁹Harris, Congressional Control, p. 67.

procedures or methods directly, the changes proposed for the Executive Branch would result in certain profound residual effects on Congress. The importance and timeliness of these investigations were emphasized in the Commission Report:

The time has come when the budgeting and accounting system of the Federal government must be modernized. Unless this is done, the Congress, the Executive Branch, and the public will be unable intelligently to judge the wisdom of the proposed expenditures and the effectiveness of past expenditures.²⁰

Among the recommendations submitted by the First Hoover Commission, for improving budgeting and accounting, were:

1. The adoption of a budget based on functions, activities, and projects. The Hoover Commission called this concept a "performance budget."
2. A complete appraisal and revision of the appropriation structure.
3. The separation, in the estimates, of current operating expenditures and capital or investment-type outlays.
4. A clarification of the President's authority to effect reductions in expenditures below the appropriated amounts, so long as the purposes authorized by Congress were accomplished.

²⁰Report of the Commission on Organization of the Executive Branch of the Government to the Congress, Herbert Hoover, Chairman, (Washington, D. C.: Government Printing Office, 1949), p. 1.

5. The establishment of an Accountant General under the Secretary of the Treasury. The Accountant General would have been given authority to prescribe general accounting methods and enforce accounting procedures. The Accountant General would combine agency accounts into summary accounts of the government and produce relevant reports for the President, Congress, and the public.

There were a number of additional recommendations with respect to the internal operation and structure of the Bureau of the Budget. Included with the Commission Report were the following recommendations of the Commission Task Force on Accounting:

1. Adoption of accrual basis in accounting for both revenues and expenditures.
2. Establish uniform departmental practices, procedures, nomenclature, better inventory and public debt accounting in order to reduce staff and red tape.²¹

The most important recommendation of the First Hoover Commission involved the introduction of the "performance budget" concept. The emphasis would be placed on "what was to be accomplished," rather than on "what resources are necessary for accomplishment." This concept, though not identical, was a forerunner of program budgeting. Program

²¹Ibid., p. 42.

budgeting, as now implemented in the Department of Defense and several other executive departments and agencies, involves the establishment of goals and objectives, searching for and evaluating alternative means of accomplishing the stated goals and objectives, and finally, selecting from among the alternatives the preferred means of accomplishment.

As a result of the First Hoover Commission, the Executive Branch implemented a number of improvements in its phase of the budgetary process. Congress chose to continue with its former methods and procedures. Commission recommendations, relating to "performance budgets," the separation of capital and current operating expenditures, the establishment of an Accountant General, and the implementation of accrual accounting failed to raise sufficient support in Congress.

The Second Hoover Commission (1955)

In June, 1955, the Commission on Organization of the Executive Branch of the Government (Second Hoover Commission) submitted its report to Congress. The Commission's report included the following statement of purpose:

The primary purpose of the Commission's task force was to ascertain the effectiveness of budgetary and accounting performance in the executive agencies, to appraise their points of strength and weakness, and

to make suggestions for the further development of what is good, and the elimination of deficiencies.²²

The Second Hoover Commission recommended the following improvements in Executive Branch budgeting and accounting methods and procedures:

1. Increase Bureau of the Budget resources and expand functions for overall improved effectiveness.
2. Institute annual report on performance from spending agencies to the Bureau of the Budget. BOB would render a summary report on performance to the President.
3. Implement cost-based operating budgets for the allocation of funds. Require periodic agency reports on performance as against the budget in order to justify allocation.
4. Stressed desirability of "performance budgets" as recommended by the First Hoover Commission.
5. Urged agencies to proceed with the synchronization of organization structure, accounting and budget classifications and systems.
6. Implement cost-base estimates for formulating and administering department and agency budgets.

These recommendations were primarily directed at

²²Report of the Commission on Organization of the Executive Branch of the Government to the Congress, Herbert Hoover, Chairman, (Washington, D. C.: Government Printing Office, 1955), p. X.

improving and refining budgeting, control and administration within the Executive.

The Second Hoover Commission then turned its attention to the "restoration of congressional control of the purse." In order to strengthen congressional control over executive departments and agencies, the Commission Report included the following recommendations:

1. The Federal budget and appropriations acts should be expressed in terms of estimated annual accrued expenditures. Only charges for the cost of goods and services estimated to be received during the budget year would be considered as expenditures. The annual accrued expenditures budget would replace the present "obligational authority" budget, which often results in large cash carry-overs from year to year.

2. Legislation for continuing special programs, which are not susceptible to the customary budgetary controls on an annual basis, should nevertheless be enacted for a definite, limited period of time. This would permit Congress to conduct periodic reviews of the applicability and continued usefulness of these special programs.

Three Commissioners (Clarence J. Brown, James A. Farley and Chet Holifield) submitted dissenting views to the majority report regarding the recommendations for budgetary

control changes. Commissioner Holifield voiced his objections as follows:

Whether these technical recommendations actually would tighten congressional control of the public purse and bring about improvements in management and greater economies, as claimed, is difficult to determine. The end result of the Commission's recommendations may be formal consistency in accounting principles rather than actual gains in economy and efficiency.²³

In any event, after fifteen years, cost-based estimates and annual accrued expenditures for budgetary purposes have still not been effected. Appropriations are approved by Congress as "new obligational authority," and the cash carry-over problem is still very much a reality. The President's Budget for Fiscal Year 1970 contained recommendations for appropriations and other new budget authority of \$210.1 billion for Fiscal Year 1970. Of this amount, \$143.9 billion required legislative action by Congress. The remaining authority became available under existing law without action by the current Congress.²⁴

The net effect of the two Hoover Commissions was the refinement of the budgetary process in the Executive Branch. These critical professional, and non-partisan analyses of Federal budget and accounting procedures resulted

²³Ibid., pp. 71-72.

²⁴U. S., President, The Budget of the United States, Fiscal Year 1970, (Washington, D. C.: Government Printing Office, 1969), p. 9.

in many improvements.

It has often been suggested that a commission-type investigation of Congress would be beneficial. However, it is unlikely that Congress would voluntarily submit to such scrutiny. In fact, Congress has continued to demand executive budget submissions in traditional format and detailed justification of end-item expenditures. And so, even where budgetary improvements have been effected in an executive area, Congress has stood firm, and has rejected all suggestions to improve its procedures.

The President's Commission on Budget Concepts

The President's Commission on Budget Concepts is the last commission discussed in this report. The Commission was appointed by President Johnson in March, 1967. In the appointing letter, the Commission was requested to study the problems involved in presenting the budget to Congress and to the public, and to make appropriate recommendations for improvement. The Commission's Report, submitted in October, 1967, suggested a new budget format which would reduce confusion, but would provide the necessary information for decision-making regarding Federal economic and fiscal policy. Decisions involving the level of economic activity and the allocation of limited resources among competing programs and activities would be made easier. The new format was called

the Unified Federal Budget.

The sixteen member Commission on Budget Concepts was headed by David M. Kennedy. The bi-partisan group included the chairmen and ranking minority members of the Senate and House Appropriations Committees, Administration officials, university economists and spokesmen for the private financial community.

The Commission Report acknowledged that the former Federal budget formats (the administrative, the consolidated cash, and the national income accounts budgets) were essentially sound and useful. The Commission praised the ability and devotion of civil servants involved in budget formulation and submission. The Commission recognized, however, that certain improvements were needed in order to make the budget format and content more meaningful to its many users: the President; Congress; and the public. In its Report, recommending the new Unified Budget format, the Commission cited a need:

. . . for certain changes in concepts and in classification that will enhance public and congressional understanding of the budget and will increase its usefulness for purposes of decision-making, public policy determination, and financial planning.²⁵

²⁵Report of the President's Commission on Budget Concepts to the President of the United States, David M. Kennedy, Chairman, (Washington, D. C.: Government Printing Office, 1967), p. VII.

The Commission reported complete unanimity among its members regarding the main proposal, i.e., the Unified Federal budget. There were dissenting reports and reservations on various other recommendations in the Report. The Commission submitted a total of thirteen recommendations, which included:

1. The Federal budget should be formulated and submitted on an accrual basis rather than a cash basis for both revenues and expenditures.
2. The budget summary should include a "means of financing" section for any anticipated deficits.
3. Interestingly, the Commission recommended against a "capital budget," which would separate current operating expenditures from capital or investment-type expenditures.

The Unified Federal Budget is comprehensive and integrated. The format separates requested authority from existing budget authority, which becomes available for obligation without further action by Congress. The format includes receipts, expenditures, and net lending as part of the government's total financial plan.

The President's Commission on Budget Concepts was further evidence of the Executive's efforts to improve and refine budgeting and accounting procedures. The Commission review was timely and necessary because:

1. Confusion and misunderstanding characterized the former budget formats. Various budgetary formats and accounting concepts competed, and final decisions regarding format were not always based on a desire for clarity and full disclosure.

2. A lack of consensus concerning appropriate accounting techniques to apply to certain items or groups of items tended to distort budget totals.

3. Congress and the public demanded a clearer, more informative budget format.

In his appointment, President Johnson gave the following reasons for establishing the Commission:

The Federal Budget is a vital document. The Federal Budget is a complex document. It is vital because it affects the lives of every man, woman and child in this nation. It is complex because it encompasses the full scope of the Federal government's activities. Yet, because of its complexity and scope, there are few who understand it. The study this group is to undertake should assist both public and congressional understanding of this important document.²⁶

The Commission Report stated that it had not evaluated the institutional arrangements for Executive Branch budget preparation and review. Neither did the Commission review the methods and procedures of Congress in authorizing and appropriating funds as requested in the Federal budget. The Commission worked toward the principles of consistency,

²⁶Ibid., pp. 105-106.

constancy and completeness in developing the new Unified Federal Budget. The new format was first used in Fiscal Year 1969, and was continued in Fiscal Years 1970 and 1971.

This concludes the survey of major reform legislation and commission reports which have had an influence on the budgetary process. With the exception of the Legislative Reorganization Act of 1946, most of the efforts at reform and improvement have occurred in the Executive Branch phase of the budgetary process. The Act of 1946 was a commendable effort, however, several of its major reforms were subsequently abandoned by Congress as non-workable. As a result, the Office of the President has become more professional and efficient in the budgetary process as compared to Congress. Executive Branch procedures and organizations, having been subjected to professional review, detailed scrutiny, and constructive criticism, have been modified and refined by application of current business and financial methods and techniques.

Congress, in contrast, has been hampered by custom, tradition, and antiquated techniques. The following Chapter discusses and describes the specific criticisms being leveled at Congress. To provide an appreciation of the context from which such criticisms arise, the Fiscal Year 1970 Department of Defense Appropriations Act is observed as it made its way

through Congress. Criticisms and reform proposals are analyzed as they apply to the processing of the Department of Defense Appropriations Act.

CHAPTER IV

CRITICISMS OF THE CONGRESSIONAL PHASE OF

THE BUDGETARY PROCESS

The Department of Defense Appropriations Act, Fiscal Year, 1970

The Fiscal Year 1970 budget was submitted to Congress by President Johnson on January 15, 1969, and recommended appropriations and new budget authority of \$210.1 billion, with \$143.9 billion requiring legislative action by Congress. The remainder (\$66.2 billion) would become due under existing law without congressional action. This "carry-over" authority is frequently criticized for its deleterious effect on congressional control over Federal spending.

The President's budget estimated outlays for Fiscal Year 1970 in the amount of \$195.3 billion. This figure included \$0.9 billion in net lending. National defense programs accounted for approximately \$81.5 billion, or 42 per cent, of the estimated outlays and almost \$83 billion of the recommended budget authority for Fiscal Year 1970.²⁷

²⁷Budget, Fiscal Year 1970, pp. 8-16.

As one of his first official acts, President Nixon announced that his administration would substantially reduce the overall size of the budget. Foremost among the President's advisors, in the effort to reduce spending, was the newly appointed Secretary of Defense, Mr. Melvin Laird. The Defense Secretary had come to the Pentagon from his long-time membership on the House Appropriations Committee and the Defense Subcommittee on Appropriations.

In late February, 1969, the President and the Defense Secretary announced that the defense budget had been reduced by over two billion dollars. Defense reductions were described as being the results of "cutting costs" and "economizing." Assurance was given that United States defense posture would not be adversely effected, but rather, that the defense forces would be put in fighting trim. The Defense Secretary added his assurances that the announced reductions would not deprive the armed forces in Vietnam of needed materials or equipment in any way.

Delayed somewhat by this further, extended review of the budget by the incoming Administration, Congress began hearings in March, 1969. The Defense Subcommittee on Appropriations began its hearings on March 11, 1969 with Department of the Army witnesses on the subject of military

personnel.²⁸ The House Armed Services Committee began its hearings on March 27, 1969.

Another frequent criticism of the Congress involves this multiple hearings process. Senior civilian and military officials of the armed services and the Department of Defense are simultaneously in demand by each of the congressional committees. The task of scheduling the appearances of the Secretary of Defense, the various Service Secretaries, the Chairman of the Joint Chiefs of Staff and other senior civilian and military officials is a monumental one. Scheduling is further complicated when the Senate committees begin their hearings at the same time. Usually the Senate hearings will follow the House hearings, but this is not always the case. The Senate often holds joint hearings between its Appropriations and Armed Services Committees on the defense authorization and appropriations bills, and this greatly simplifies the scheduling of witnesses.

The Senate Armed Services Committee issued its report on the Defense Authorization Bill on July 3, 1969 - three days after the start of the 1970 fiscal year. The House Armed Services Committee completed its hearings on

²⁸U. S. Congress, House, Committee on Appropriations, Department of Defense Appropriations for 1970, Hearings, before a subcommittee of the Committee on Appropriations, House of Representatives, on H.R. 15090, 91st Cong., 1st sess., 1969, Part 1, p. 1.

August 8, 1969. The delays encountered in the authorization process are frequently responsible for subsequent delays and lateness in the enactment of appropriations. It is during the authorization process that opposing political forces are able to exert the greatest impact on the timeliness of the budget cycle.

Congressman Mendal Rivers (D. South Carolina), Chairman of the House Armed Services Committee, informally advised legislative circles that his bill would not be reported to the floor until the Senate had passed the Defense Authorization Bill. This measure contained the highly controversial Safeguard (ABM) missile deployment program. Congressman Rivers, a vocal advocate and supporter of the armed forces and a strong defense posture, did not want to stand alone on the Safeguard (ABM) issue. There had been heavy opposition to the ABM deployment program, both in and out of Congress. A great deal of publicity, favorable and adverse, had been released by various interest groups and news media. Congressman Rivers wanted the Senate to take a position one way or the other on the Safeguard program.

The Senate subsequently passed the Defense Authorization Bill (S. 2546) on September 18, 1969. The bill provoked thirty-three days of stormy debate and several amendments were added on the floor in the Senate. The

unlimited debate rules prevailing in the Senate are often criticized for delaying legislative action. In this instance, debate was for the most part germane and relevant to the legislation being considered. This is not always the case. Relevancy is not an essential requirement in the upper House.

The House Armed Services Committee reported out its bill, on September 26, 1969. With limited debate rules prevailing in the House, the Defense Authorization Act was taken up on October 1, and passed on October 3. The measure (H.R. 14000) was approved in the House with only three amendments. All of the amendments which had been added in the Senate were offered, considered and voted down by the House.

Chairman Rivers, the Armed Services Committee, and the House of Representatives were harshly criticized for the hasty passage of the Authorization Act. The House was accused of stifling debate. One highly incensed periodical called the session "a travesty," and charged in an editorial that copies of the printed hearings were not made available to the membership until three days before floor debate. The Committee Report was not delivered to the House until two days before floor action.²⁹

²⁹The Nation, Vol. 209, No. 13, (October 20, 1969), pp. 394-396.

After passage of the Defense Authorization Act by the House, the Senate and House versions were sent to Conference Committee to reconcile differences. The Conference Committee reached agreement in three weeks (with House views generally prevailing). The bill was sent to the President on November 6, 1969, and was signed on November 19, 1969.

Meanwhile, Congressman George H. Mahon (D. Texas), Chairman of the House Appropriations Committee and Chairman of the Defense Subcommittee on Appropriations, had earlier stated that his committee would not report the Defense Appropriations Act for Fiscal Year 1970 until such time as the substantive committees had resolved the controversial "authorization" measure. In his Committee Report, Chairman Mahon provided the following explanation for the delay in bringing the bill to the floor:

It was necessary that the (Appropriations) Committee hear the Secretary of Defense following Congressional clearance of the authorization in order that the Committee might determine precisely the position of the Administration, including its allocation of priorities, with respect to the programs affected by the authorization.³⁰

Finally, on December 8, 1969, over five months after the start of the 1970 fiscal year, the House began consideration of the Defense Appropriations Act for Fiscal Year 1970 (H.R. 15090). The bill was debated on the floor of the

³⁰U. S. Congress, House, Committee on Appropriations, Report to Accompany the Department of Defense Appropriations Bill, 1970, H.R. Rept. 91-698, 91st Cong., 1st sess., 1969, p. 5.

House for most of the afternoon, on December 8. Debate was limited to three hours, with the usual five minutes allotted for offering amendments. Several amendments were offered during the afternoon. Only one of these amendments passed, however, and it received a favorable endorsement from the powerful Chairman of the Appropriations Committee. The successful amendment was offered by Congressman Henry S. Reuss (D. Wisconsin), and provided that:

. . . no part of any appropriation contained in this act shall be used for publicity or propaganda purposes not authorized by Congress.³¹

This amendment was, no doubt, influenced by the extended discussion in the Senate by Senator J. W. Fulbright (D. Arkansas) on December 1, 1969. Occupying thirteen pages in the Congressional Record, Senator Fulbright delivered a scathing speech in which he decried all sorts of questionable public relations activities conducted in the armed services and the Department of Defense. Disclosed by Senator Fulbright, in the Congressional Record, were alleged expenditures for public relations activities of \$28 million per year by the Defense Department and \$10 million per year by the Navy.³²

³¹U. S. Congress, House, Congressman Reuss speaking for the Amendment to the Department of Defense Appropriations Bill, 1970, H.R. 15090, 91st Cong., 1st sess., December 8, 1969, Congressional Record, CXV, H 11904-H 11905.

³²U. S. Congress, Senate, Senator Fulbright speaking on Expenditures for Public Relations Activities by the Department of Defense, 91st Cong., 1st sess., December 1, 1969, Congressional Record, CXV, S 15144-S 15157.

Another amendment offered by a Congressman from New York suggested that the Defense Appropriations Act be reduced 10 per cent across the board. Congressman Robert L. F. Sikes (D. Florida), a Defense Subcommittee member, responded to the amendment by stating forcefully that the Subcommittee had worked very hard for some eight months in effecting a \$5 billion reduction. Congressman Sikes pointedly informed the Congressman from New York that the amendment he had just offered "would have the effect of reducing the Defense Appropriations bill by over \$1 billion dollars for each minute that the gentleman had held the floor." The amendment, when put to a vote, received no serious support and was not carried. Ultimately, the Defense Appropriations Act was passed by a roll-call vote of 330 to 33.

The Senate Appropriations Committee completed its consideration of the Defense Appropriations Act for Fiscal Year 1970 the following week. Extensive debating ensued in the Senate, first within the Appropriations Committee and then on the floor. The Safeguard (ABM) missile controversy was re-opened in all its fury. This subject had occupied the Senate for three months earlier in the session, when the Defense Authorization bill was being debated. With unlimited debate rules prevailing, Senate discussions quickly expanded to include such matters as United States

foreign policy, the involvement of United States troops in Southeast Asia, and a multitude of other defense policy questions. It is relatively safe to suggest that only the impending Christmas adjournment, and a Presidential threat to call a special session of Congress if all money bills were not acted upon, finally forced curtailment of debate. The Defense Appropriations Act was passed by the Senate and, again, many amendments were added on the floor. The two versions, passed by the House and the Senate, were referred to Conference Committee to reconcile differences.

Rushing into the Christmas holidays, the Conference Committee quickly reached agreement on a compromise bill. Again the House version generally prevailed. Critics complain that the Conference Committee approach invariably results in a sub-optimal decision. Compromise and consensus, by definition, are usually facilitated by searching for the lowest common denominator solution. Also, critics maintain that the members of the Conference Committee exercise extraordinary powers, and that constituency representation is not equal on such committees. Once the Conference Committee reports out a compromise solution, the two Houses cannot offer amendments. The bill becomes a "take it or leave it" situation. Acceptance and passage usually follows quickly.

The Defense Appropriations Act for Fiscal Year

1970 was submitted to the President for signature in late December, 1969, over eleven months after the original submission of the budget to Congress. In the interim, Congress found it necessary to enact two "continuing resolutions," in order to enable the continuous operation of the Department of Defense. "Continuing resolutions" enable the executive departments and agencies to continue operations at previously authorized levels. New programs or expanded activities must await new funding authority.

The delays associated with passing appropriations legislation hamper fiscal planning on the part of the Executive. Coming late in December, and five months into the applicable fiscal year, the Department of Defense Appropriations Act was the latest congressional action on a defense appropriation in modern memory. However, it was not a record for tardy action. The Health, Education and Welfare Appropriation Bill for Fiscal Year 1970 was not passed by Congress until January, 1970. This bill was subsequently vetoed by President Nixon as being inflationary. The Department of Health, Education and Welfare finally received its appropriation in March, 1970, over eight months after the start of its fiscal year.

Chairman Mahon, in reporting the Appropriations bill to the floor, highly commended Secretary of Defense Laird for his assistance in making reductions in the defense budget

of some \$5 billion. Secretary Laird and the Nixon Administration were commended for their actions which had resulted in a \$2 billion reduction in defense money. The rapport and mutual respect, very much in evidence during these proceedings, was noticeably changed from that which had existed between the Congress and Secretary Laird's predecessor, Mr. McNamara.

However, the printer's ink had hardly dried on the Defense Appropriations Act before the press began to report conflicting views on the matter of defense reductions and how they were achieved. Writing in The Washington Post, Rowland Evans and Robert Novak offered the following explanation:

Employing a sleight-of-hand learned in years of congressional budget-cutting, Secretary of Defense Melvin Robert Laird wrought a minor political miracle in steering President Nixon's defense bill through a Congress so hostile to the military that last summer it was threatening irreparable budget cuts. Laird's technique, carefully plotted with a handful of key congressional defense experts, was to arrange a budget scenario far in advance with this outcome: Congress, not the Nixon administration, would get the political credit for a whopping \$5.5 billion cut in appropriations for the present fiscal year (ending June 30)³³

The technique allegedly used by Secretary Laird involved the intentional omission of submitting formal budget amendments to Congress. Normal budgetary procedure

³³Rowland Evans and Robert Novak, "Defense Budget-Cutting Miracle Due to Laird's Sleight of Hand," The Washington Post, December 31, 1969, p. A11.

would have resulted in the submission of amendments revising the estimates downward as programs and activities were reviewed and curtailed or deleted. In lieu thereof, Secretary Laird was accused of substituting private and frequent consultations with congressional leaders on the Senate and House Appropriations and Defense Committees. With these congressional leaders, Secretary Laird allegedly discussed reductions which would not adversely effect defense posture and which could be "lived with." The desired result was to give Congress credit for its economy efforts and the associated all-important political credit and news media exposure as "defense budget cutters."

Less than a week later, and again in The Washington Post, Walter R. Mears of the Associated Press reported that both Democrats and Republicans had laid claim to the economy label and had simultaneously refuted the claim of each other. Mr. Mears' article said:

The Senate Democratic Policy Committee said Congress slashed President Nixon's budget and at the same time realigned national priorities. The Senate Republican Leader, Hugh Scott, rejected the Democrats' claim and gave the Nixon administration credit for the reductions. A Republican paper prepared by aides of Senator Scott and the Bureau of the Budget claimed that "since taking office, President Nixon has ordered \$7.5 billion in budget cuts for Fiscal Year 1970. Four billion was trimmed from the original Johnson budget in April. In July, the President ordered another cut of \$3.5 billion".³⁴

³⁴Walter R. Mears, "GOP Disputes Democrats on Credit for Budget Cuts," The Washington Post, January 5, 1970, p. A6.

Regardless of the branch or element to ultimately receive credit for the budget cuts, the fact remains that the Defense Appropriations Act for Fiscal Year 1970 was reduced by some \$5.5 billion during the time that it made its perilous way through Congress. Critics of the congressional phase of the budgetary process often question the wisdom and rationale the Appropriations Committees use in such budget cuts. The following exchange, between Chairman Mahon and General Earle G. Wheeler, USA, Chairman of the Joint Chiefs of Staff, is revealing on the matter of discretion in reductions effected by the committee:

General Wheeler: I would like to assure the committee that the Joint Chiefs of Staff have participated fully in the examination of the reductions that have been made in the budget.

Chairman Mahon: That have been made and that have been proposed?

General Wheeler: Yes, sir. We have. It is our belief that the reductions have been made, as the Secretary said a moment ago, in such a way as to have the least possible adverse effect on our security.

Chairman Mahon: General Wheeler, do you say that under all the circumstances, fiscal and otherwise, you feel the proposed reductions are reasonably acceptable and are you in support of them?

General Wheeler: Yes, sir, the Joint Chiefs of Staff are. I would like to say further that, of course, any force structure that is prepared with fiscal constraints obviously is not going to provide the forces and the posture to meet every possible contingency. However, we have provided in here for the continuance of the war in Vietnam in such a way as to support our forces effectively and permit them to carry out their mission. We have struck a balance, I think, between the needs of the present and the needs for the future. In other words, we have tried to maintain forces to protect our security

today. At the same time, we have supported programs that will provide for our security 5 or 10 years in the future. I would like to conclude by saying this, sir: The Joint Chiefs of Staff consider that these reductions in this budget really represent the limits of what we would call prudent risk.

Chairman Mahon: Thank you, General.³⁵

The Appropriations hearings covered a period of over eight months. The hearings involved literally hundreds of witnesses and thousands of pages of testimony. Subject matter on any given day and for any given witness ranged from a broad discussion of overall defense policy to the detailed minutiae of defense programs and activities. A review of the seven volumes of printed hearings held by the House Appropriations Committee's Defense Subcommittee quickly reveals substantial technical knowledge and professional ability on the part of subcommittee members. Questions were searching, relevant and based on broad experience and knowledge of the weapons systems, programs and activities being reviewed and discussed.

The long hours of painstaking preparation required of each witness come to fruition when he is confronted with such detailed questioning concerning the activities and accomplishments of his department or agency. The hearings

³⁵U. S. Congress, House, Committee on Appropriations, Department of Defense Appropriations for 1970, Hearings, before a subcommittee of the Committee on Appropriations, House of Representatives, on H.R. 15090, 91st Cong., 1st sess., 1969, Part 7, p. 381.

process can be extremely uncomfortable and unpleasant for the ill-prepared or uninformed witness. Small wonder that the function of preparing executive department and agency witnesses for appearances before congressional hearings has become a highly specialized profession. Those individuals who achieve competence and agency confidence in this role are highly regarded. Such individuals become extremely valuable to their departments and agencies for their abilities and expertise in anticipating committee interests and expectations.

A well-prepared and well-briefed witness can do much to enhance his agency's reputation and standing with the committee. The House Appropriations Committee member, for example, enjoys the respect and admiration of other congressmen for his performance of hard work and expertise in his particular speciality. Accordingly, the Committee member recognizes and respects these superior qualities in the departmental and agency witnesses who appear before them.

Generally, the hearings will conclude with compliments and congratulations all around the table. However, few hearings have ended with such lavish praise as the Defense Appropriations hearings this past year. The following exchange of compliments occurred:

Chairman Mahon: Mr. Secretary, it has been most helpful to have been able to spend the day with you. Your

testimony has been most helpful to us. You understand our problem in a very special and peculiar way because of your former long and effective service on the Subcommittee on Defense Appropriations. So we are most happy to have had you here. We have not meant to harass you, we do not think that we have. You have been most helpful to us. We want to commend you for your herculean efforts in the field of defense and for your efforts toward securing a just and honorable peace. We are really grateful to you. We wish you good luck in your work. We want you to know we are always anxious to cooperate with you.

Secretary Laird: Thank you.

Congressman Flood: We could have sold tickets to fill this stadium to hear this performance today.

Chairman Mahon: I want to say, General Wheeler, that you are an old friend of the committee. You have always been most helpful to us and we appreciate your appearance here. I have assumed that, generally, you and the Secretary work as a team and that what he has said in a general way and what you have said in a general way represents the joint views of you two gentlemen who occupy the highest jobs in the Department of Defense.

General Wheeler: Your assumption is correct, Mr. Chairman.

Chairman Mahon: We are very pleased to have you. We are very pleased to have Mr. Moot here also. He has done a tremendous job in seeking to be of service to us. Jack Stempler has been most helpful to us. Your other aides and assistants also have been helpful. I wouldn't want to overlook Mr. Doug Sinclair, who has been with us throughout the hearings this year. When he leaves the committee room in a hurry, I know what he is doing, he is dashing to the telephone in order to call the Pentagon to get certain information which he knows the committee needs. He has been most helpful, Mr. Secretary, I want you to know that.

Congressman Andrews: Mr. Secretary, Doug is an updated General Moore to us.

Secretary Laird: I thank you, Mr. Chairman. He works very closely with Mr. Moot. I have great confidence in Bob Moot. This has been a difficult year for the Comptroller in the Department of Defense, probably the most difficult year that any Comptroller has had to face because of the uncertainties about everything. He has done a very fine job and has been of great support to me.

Chairman Mahon: Mr. Secretary, it has been a most difficult year to be Secretary of Defense, too, as we well recognize. I am glad you have been able to bear up under the responsibilities. We wish you good health and success. Thank you very much.

Congressmen Flood: The consensus on this corner of the table is that the mutual admiration society is now adjourned.³⁶

This concludes a brief synopsis of congressional activity in processing the Department of Defense Appropriations Act for Fiscal Year 1970. Significant items concerning the DOD Authorization Act for Fiscal Year 1970 were also included since "authorization" must precede "appropriation" measures to the floor. A special rule may be obtained waiving points of order to enable the appropriations measure to be considered first. However, this is a very rare and unusual event. Authorizations will normally precede appropriations measures to the floor in both the House and the Senate.

In the following section, some additional criticisms of the congressional budgetary process are considered.

Criticisms of the Budgetary Process

In a classic document prepared for the Legislative Reference Service of the Library of Congress, George Galloway summarized and described the procedures used by the executive agencies and departments in formulating the budget, the

³⁶Ibid., p. 475.

various budget formats which have been used since 1921, the congressional procedures for authorizing and appropriating funds, and finally, the execution and audit of the budget. Galloway listed many criticisms of executive and congressional procedures and methods, and past congressional attempts at reform. In introducing his work, Galloway provided the following summary of criticisms of Congress:

Critics of the legislative phase of the budget process have found fault with the piecemeal nature of the appropriations process, the necessity for multiple justifications of executive programs, the extreme specification of appropriations, the making of permanent and indefinite appropriations, incomplete (inadequate) staffing of appropriations committees, the holding of secret hearings by the House Appropriations Committee, the recurring end-of-the-session log jams of supply bills which is attributed to the double nature of the appropriations process, and the failure to enforce a ceiling on appropriations.³⁷

This appraisal was written in April, 1950 - twenty years ago. The same criticisms continue to appear in the literature and news media today. As noted previously, there have been no significant changes in the congressional phase of budget review since the passage of the Legislative Reorganization Act of 1946. The major reform provisions of that Act have been largely ignored (the Legislative Budget) and/or rendered ineffective by subsequent actions of the

³⁷George B. Galloway, Reform of the Federal Budget, (mimeo), (Washington, D. C.: The Library of Congress, Legislative Reference Service, Public Affairs Bulletin No. 80), April, 1950, p. ii.

Congress (the proliferation of subcommittees following the re-establishment of a single appropriations committee in each body).

A summary of criticisms of the budgetary review process follows:

1. Congress neither considers Federal expenditures in relation to revenues nor the resulting impact on the national economy.
2. Many appropriations and revenue bills are received, considered and enacted separately and completely independent of each other. (Note: The DOD Appropriations Act for Fiscal Year 1970 was the nineteenth appropriations measure to be acted upon by the 91st Congress)
3. Responsibility for reviewing and approving the Federal budget is distributed (fragmented) among several subcommittees in each body of Congress. The subcommittees are autonomous and highly independent of the parent committee/body and of the other subcommittees, especially in the House.
4. Legislative (substantive) committees do not exert proper control over new programs and activities. These committees often authorize new programs and commit the government to future expenditures without adequately considering the total cost or duration of the commitment.
5. Appropriations subcommittees give too much attention to details and end-items of expenditure and not enough

attention to overall governmental policies, programs, and objectives.

6. The budget cycle is too long. The length of the budget cycle necessitates Executive Branch action to submit many revisions, amendments and supplementals to the original budget requests as changes in conditions and circumstances occur.

7. Congress has been ineffective in promoting economy and efficiency in Federal spending utilizing present techniques.

8. Current congressional methods enable and encourage local interests and pressure groups to exert undue influence on the members of the substantive committees and appropriations committees.

9. The large "carry-over" of spending authority, resulting from multi-year or indefinite appropriations and/or authorization, weakens congressional control and oversight over the Executive.

10. "Back-door" spending authority, resulting from permanent authorization of specific funds by the substantive committees, omits the particular agency from the annual appropriations review. This further weakens congressional control and precludes a review of the budget as a whole.

11. The appropriations acts are prepared in too much detail and are too restrictive. The acts contain such a large degree

of instructions, limitations and specification that the executive departments and agencies are unable to perform their functions properly. The great detail and specification prevent Congress from holding the Executive responsible for performance and results.

12. The perennial supplemental and deficiency appropriations which are requested and granted further lessens the control and effective administration of the budget by Congress.

13. All committees, and specifically the appropriations committees, have too few staff personnel. As a result, the committees are unable to perform any substantial control or surveillance over the gigantic and expanding Executive Branch.

14. Congress should establish better information flow from and working relationships with the Bureau of the Budget.

15. Congress should increase its utilization of the General Accounting Office in the budget review process. The General Accounting Office can contribute to the budget analysis phase as well as the audit phase.

Certain of these criticisms merit analysis in greater depth. This analysis sets the stage for the subsequent review of reform legislation now before the Congress.

Usually at the top of every list of criticisms of the congressional budgetary process is the allegation that Congress takes a piecemeal, fragmented look at the budget.

A companion criticism is that Congress never considers the President's financial plan as a whole. Congress does not evaluate appropriations measures in relation to the current estimates of revenue. Congress, in its committee and subcommittee structure, considers the budget as a series of separate and unrelated parts. The House and Senate passed over twenty separate appropriations bills during the First Session of the 91st Congress. This count includes the various supplementals, deficiencies and "continuing resolutions" which were enacted. Appropriations and revenue bills are considered and reported out by separate committees in the House and Senate. Although these bills are ultimately voted on and passed by the entire Congress, there is little evidence that legislators give any consideration to the close interrelationships between the two types of bills.

The subcommittees assume responsibility for the portions of the budget applicable to departments and agencies under their particular jurisdiction, i.e., Defense Subcommittee, HEW Subcommittee, Labor Subcommittee, etc. These subcommittees give scant consideration to the accumulation of total new obligational authority, total obligations to be incurred or to the total level of expenditures or cash outlays arising from other subcommittee action. In reaching decisions regarding the new obligational authority to be granted, Congress does not establish the level of actual

expenditures to be made in the budget period. Neither are benefits and costs in one bill compared to the benefits and costs of other programs and activities in other bills. In short, the Congress does not systematically consider the President's budget as a whole nor does it consider the relationship between the level of expenditures (cash outlays) and estimated revenues.

In 1955, the Committee for Economic Development recommended that a Joint Budget Policy Conference be established. This Conference was to have included members of the congressional leadership, majority and minority representatives from the appropriations and revenue committees in both bodies, and the Joint Economic Committee. The Conference was to have been given responsibility for studying the President's budget as a whole and reporting its findings and recommendations. The Joint Conference Report was to have provided communications between members of the revenue, appropriations and Joint Economic Committees. This proposal, however, suffered the fate of all similar proposals recommending joint endeavors between the two Houses. It failed to generate sufficient support for adoption.³⁸

While no documentary evidence was found to refute

³⁸David J. Ott and Attiat F. Ott, Federal Budget Policy, (Washington, D. C.: The Brookings Institution, 1965), p. 46.

the criticisms concerning the piecemeal approach, congressional budgetary review is not without a degree of overall coordination and control. The organizational meeting of the full committee, at the beginning of each session, affords an opportunity for presentations by the Secretary of the Treasury, the Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisors and other witnesses on the state of the economy and the expected impact of the budget. Also, the Chairman and the ranking minority member participate in the meetings of each subcommittee, thereby providing a degree of continuity and control. It is in the subcommittee environment that the splintered jurisdiction and fragmented, piecemeal approaches are alleged to occur. The Chairman and the ranking minority member are able to provide a total view of the status of the budget. The Chairman can also establish broad objectives, goals or targets for the subcommittees.

The foregoing rationale notwithstanding, it is imperative that the inter-relationships of Federal spending plans and estimates of revenue be considered at some point in the budget review process. Congress must appreciate and be able to comprehend the combined effect of Federal spending and revenues on the level of employment, price levels, economic growth and the international balance of payments. Congress has on occasion formulated taxing and/or spending policies without any apparent consideration of the resultant

effect on the national economy.

Congress' failure to promptly react to the President's suggested fiscal policies has not always been due to basic disagreement. Too often, the lack of timely response has resulted primarily from the involved congressional machinery. The slow legislative process and the resulting delays in implementing remedial fiscal actions to stimulate or retard the economy have been criticized by Ott and Ott:

In general, both tax and expenditure changes are slow and somewhat clumsy instruments of policy, largely because of the need to obtain legislation from Congress for all significant policy changes.³⁹

This appraisal of legislative tardiness and the adverse effects on the timely initiation of fiscal policy actions by the Executive Branch is supported by Joseph P. Harris:

The difficulty of making opportune fiscal decisions is further increased by the long lapse of time, due in part to cumbersome legislative procedures, between the preparation of plans and estimates and the eventual expenditure.⁴⁰

The "new economics" guidelines require the government to meet business recessions by promptly increasing Federal spending and/or lowering taxes. This action is advised even at the risk of incurring substantial deficits. This theory

³⁹Ibid., p. 90.

⁴⁰Harris, Congressional Control, p. 66.

is based on the ever-rising potential of the national economy. Accordingly, the theory provides that any budget deficit, incurred during a recession, will be recovered and reversed by increased tax receipts when the economy begins to swing up again. The primary frustration to application of "new economics" theory is the long reaction time of the Legislative Branch. Legislation proposed to increase taxes or to increase (or decrease) expenditures, is subjected to careful scrutiny by Congress. By the time such legislation is enacted, the economic climate may have changed and the corrective action may now be too harsh or too mild to have the desired effect.⁴¹

Few discussions of the congressional phase of Federal budgeting fail to observe that the primary faults are not in the appropriations process, but rather are in the authorization process. Such faults include the allegation that the substantive committees do not exercise proper control over initial authorization of new and/or expanded programs and activities. It is most difficult to reduce or eliminate spending once it has started and has gained the support of various local interest and pressure groups. The most effective control that Congress can exert occurs at the authorization stage and before the new projects have been started.

⁴¹Federal Economic Policy, p. 7.

As a result of these previously approved and continuing programs, the portion of the budget subject to congressional control each year is relatively small. The large welfare programs, veterans' programs and interest on the national debt are, in the main, uncontrollable by Congress. This large uncontrollable portion of the budget is the "submerged part of the iceberg." Approximately 40 per cent of the total Federal budget is not controllable on an annual basis by Congress. Of the national security portion of the budget (Defense, AEC, NASA), approximately 95 per cent is controllable as a result of an annual budget review. In contrast, only about 25 per cent of the domestic programs (Welfare, Veterans, Pensions, etc.) are controllable by an annual budget review.⁴²

Writing of the efficacy of controls at the authorization stage, Murray Weidenbaum provides the following comments:

Proposed legislation represents that stage of the overall Federal government spending process which is most amenable to direct and effective control. At the outset, the President can refrain from making these new recommendations, or he may modify proposals of administrative agencies to his liking. The Congress can refuse to vote enabling legislation, or modify proposals as its collective judgment dictates. Finally, the President can veto any such legislation that is

⁴²Slesinger, Business, Government, p. 221.

passed by the Congress.⁴³

In the past, substantive committees have been criticized for enacting "permanent" authorizations. Programs and activities enjoying such authorization are not subject to annual review and approval by Congress. The only annual review of such programs and activities is performed by the appropriations committees. In recent years, the House has increased the number of programs and activities subject to annual authorization. The obvious intent is to reduce the degree of dependence of the general membership on the House Appropriations Committee. Annual authorization provides a means for direct inquiry via the hearings process for the substantive committees and the executive departments and agencies.

The Constitution provides for the military establishment. Therefore, annual authorization by a substantive committee would normally not be required prior to action on appropriations legislation. The Congress has, however, voted to require annual authorization on certain military programs. For example, in 1959, the House extended the annual authorization process to all expenditures for "aircraft, missiles and naval vessels." The enabling legislation, as subsequently

⁴³Murray L. Weidenbaun, "Federal Budgeting - The Choice of Government Programs," Congress and the Federal Budget, (Washington, D. C.: American Enterprise Institute for Public Policy Research, 1965), pp. 56-57.

passed in Conference Committee, omitted the specific language requiring annual authorization. Nevertheless, annual authorization has, in fact, been enacted each year, since 1959, in these areas.⁴⁴

The increasing number of annual authorizations result in additional hearings, duplicate justification by the Executive and, sometimes, duplicate legislation. In appearing before both the substantive committees and the appropriations committees, Executive Branch witnesses may be able to "play one committee off against the other." In any event, the authorizations process provides another element of control and oversight to Congress. However, it also adds dual hearings and time-consuming legislative processes to an already slow appropriations process and a lengthening budget cycle.

A major criticism of the budgetary process is that the budget cycle is too long. The Executive Branch commences its budget formulation approximately sixteen months prior to the start of the applicable fiscal year. The individual agencies and departments usually begin preparatory work on their budget submissions even earlier. The budgeting process requires such a long time primarily because of congressional

⁴⁴Raymond Dawson, "Congressional Innovation and Intervention in Defense Policy: Legislative Authorization of Weapons Systems," American Political Science Review, March, 1962, p. 53.

insistence upon detailed, item-by-item review. The Executive phase is correspondingly longer because of the elaborate preparations required to enable witnesses to support and defend their requests for funds. The Executive Branch spends much of its preparation time constructing "justification books" to support the line item review demanded by the appropriations subcommittees.

A shorter budget cycle would enable the Executive to submit more accurate estimates. A shorter cycle would enable planners and estimators to incorporate more current data in their submissions, thereby reducing or eliminating the necessity for amendments, revisions, supplementals, and deficiency appropriations. The shorter cycle would permit more accurate forecasts of economic trends.

The six-month time span for congressional review of the budget, immediately prior to the start of the fiscal year, has proven to be totally unrealistic. Long term budgeting, such as biennial or multi-year, would reduce the annual workload of the Executive and Legislative Branches. Biennial or multi-year budgets have been suggested for large capital investment projects, such as public works construction. In addition to spreading the workload over a longer period, the expanded budget cycle would permit closer scrutiny of individual projects. Congress would be better able to consider total costs and benefits. Writing on the inadequacy of one-year

budgets, and the failure to recognize total long term costs, W. Z. Hirsch concludes:

. . . because of its one-year time span, the budget overlooks the full cost implications of first-year financing and has thus facilitated "foot-in-the-door" financing that has often proved costly to the nation.⁴⁵

Another criticism is as old as Congress itself.

Beginning with Secretary of the Treasury Hamilton, the Executive Branch expressed a strong preference for "appropriations to be granted under a few generalized heads." Congress preferred detail and specification in the appropriations acts to insure control and accountability. The House has historically and adamantly objected to broad grants of authority for the Executive. Many factors are involved in ultimately determining the degree of authority to be granted in the appropriations acts. A partial listing of such factors would include:

1. The state of relations between the Executive and Congress. These relations do vary over time. Degree of variance may reflect the political affiliation of the resident at the White House.

2. The policies and procedures of the particular committee or subcommittee handling the legislation.

3. The rapport and mutual esteem between the spending agency and the committee. For example, the Federal Bureau of

⁴⁵W. Z. Hirsch, Integrating View of Federal Program Budgeting, (Santa Monica: The Rand Corporation, 1965), p. 2.

Investigation has enjoyed an enviable and preeminent position with Congress for many years. This is a tribute to the Director, Mr. Hoover, and his extraordinary reputation with Congress.

4. The current state of technology in the field and the capacity of individual members of the committee to assimilate adequate knowledge about the field. The National Aeronautics and Space Administration (NASA) enjoyed an abnormally large degree of authority and freedom until such time as certain congressmen began to develop a reasonably proficient comprehension of space technology and the language of space scientists.

However, in the broader view, Congress has been reluctant to grant any more authority to the Executive than absolutely necessary. Appropriations bills have normally been enacted in great detail and specificity and clearly limiting or restricting the authorized goals, objectives and policies. As previously mentioned, this itemization and specification tends to hamper effective administration within the Executive Branch. By enacting highly restrictive and limiting legislation, Congress abrogates the Executive's responsibility for satisfactory performance and successful accomplishment of his assigned mission. Congress is somewhat unique in this zealous approach to positive and complete

control over the Executive departments and agencies. Joseph Harris discusses this point, as follows:

In all democratic countries, the power of the purse is the cornerstone of legislative control of administration. The Congress of the United States, however, far outdoes the legislatures of other democracies in subjecting executive budgets to detailed, strict review and extensive revision and in relating financial control continuously and pervasively to the policies, programs, and activities of executive agencies.⁴⁶

Prior to 1961, the Defense budget identified appropriations by object classes and resource categories. For example: the budget contained headings for Military Personnel, Operation and Maintenance, Procurement, Research and Development/Test and Evaluation, and Military Construction. The budget identified the elements of input required and made no reference to the specific goals, objectives or programs involved. The House Appropriations Committee, through its subcommittees, determined the size and content of the Defense budget based on testimony, substantiation and justification presented during the hearings. Members of Congress could form their individual opinions on pending legislation based on the printed hearings and recorded testimony of witnesses. Since appropriations requests were non-programmatic and did not involve policy questions, the Appropriations Committee could evaluate them on strictly a

⁴⁶Harris, Congressional Control, p. 46.

"dollars and cents" basis. Under the banner of "guardians of the Treasury" and the battle cry of economy and efficiency, the Appropriations Committee was able to reduce appropriations without becoming involved in the politics associated with any particular program. The Committee did not have to take a position with regard to any specific governmental spending policy. Richard Fenno discusses this point, as follows:

Committee objections, to program-oriented budgetary forms, have rested in part on its preference for a budget in which personnel items, travel items, equipment items, etc., are separated out conveniently for its scrutiny. It has considered these object classifications easier to comprehend (and easier to cut) than performance budgets.⁴⁷

As an alternative approach to a detailed item-by-item review, it has been recommended that Congress monitor government policies and programs at the broadest level. The following quotation offers a suggestion for the re-directing of congressional emphasis in the matter of control:

The committees might do well, then, to change their policy targets from the budget to the climate of opinion that shaped it. The influence Congress exercises on the budget cannot be gauged solely by reference to committee recommendations or floor debates and votes. Far more consequential is the influence Congressmen exercise by virtue of their contribution to the general climate of opinion regarding desirable and possible defense expenditures. This climate heavily conditions Executive and Congressional choices alike. The relevance of the point for the committee's approach to the budget is that it is today's hearings, which contribute to tomorrow's

⁴⁷Fenno, The Power of the Purse, p. 336.

climate of opinion.⁴⁸

The "secret" hearings held by the House Appropriations Committee are often criticized. The daily schedule of congressional activity will invariably show that all of the appropriations subcommittees are in closed sessions. Witnesses are allowed only during the time of their particular testimony, then they are usually excused by the Chairman.

The Senate, of course, holds open hearings on the appropriations bills. Mark-up of the bills is accomplished in executive "closed" session in both bodies. During these executive sessions, only members of the committee and the professional staff are allowed to be present. The hard decisions are debated and decided during these mark-up sessions. Thereafter, the committee report is prepared and submitted to the full committee, and then to the floor.

If open hearings were held by the House Appropriations Committee, communication among the members of Congress would be improved. Also, by having competing programs presented, the committees could sharpen their judgment and evaluation. Arthur Smithies has offered the following innovative approach:

Recognition of the role of choice among alternatives should have an important bearing on government organization and procedures. I conceive of effective government decision-making as consisting of adversary processes,

⁴⁸Walter R. Schilling, Paul Y. Hammond, and Glenn H. Snyder, Strategy, Politics and Defense Budgets, (New York: Columbia University Press, 1962), pp. 248-249.

analogous to processes in the legal field. The proponents of alternative courses of action should state their claims, marshall their evidence, produce expert testimony, and perhaps cross-examine the other side. Someone in authority then has to make a choice.⁴⁹

A great deal has been written in this paper about the expertise and professionalism of the members on the appropriations committees. The House Appropriations Committee has earned its title, "guardian of the Treasury." However, the overall effect of Congress on the budget has been to increase rather than decrease spending. As earlier stated, responsibilities for authorization and appropriation are divided among many committees and subcommittees. Often individual members will urge economy and efficiency in the government in general, but will press vigorously for continued and additional Federal expenditures of benefit to their particular constituencies. There is no doubt that Congress is under great public pressure to increase and expand certain Federal programs, and Congress has often added funds to the budget which have not been requested by the President.

Though actions of Congress resulting in reductions in the budget will generally receive wide publicity, economy and efficiency remain as secondary considerations to the political factors involved in any particular decision.

⁴⁹Arthur Smithies, Government Decision-Making and the Theory of Choice, (Santa Monica: The Rand Corporation, 1964), p. 10.

Congress can make any changes that it wishes to the financial proposals submitted by the President. Budget estimates may be increased or decreased. Items can be rejected entirely and/or new items can be added. Congress has the power to attach restrictions and limitations to the wording of appropriations acts, and individual members have the power to introduce bills, or offer amendments to bills, for the purpose of increasing Federal expenditures. Congress advises the Executive as to what should be included in the budget by enacting authorization legislation. The authorizations prescribe, often in great detail, the programs and activities which the executive departments and agencies may conduct.

If the budget is prepared in accordance with this guidance, substantial changes should be unnecessary and unwarranted. Joseph Harris speaks to this point, in Congressional Control of Administration:

After the budget has been prepared and revised under the direction of the President, substantial revision should ordinarily be unnecessary, especially if it has been prepared, as is usually true, with close attention to legislative policies. Changes made by Congress when the budget is under consideration, it should be recognized, are often dictated by a few influential members who occupy key positions on the finance committees, and may not necessarily reflect the considered judgment of the assembly. The changes are often increases for the benefit of particular groups or sections rather than reductions in the interest of economy.⁵⁰

⁵⁰Harris, Congressional Control, p. 80.

There are many pressures to increase Federal spending. Private individuals and organized pressure groups (lobbyists) believe that the special benefits of certain programs and activities are superior to the alternative benefits to be gained by eliminating or reducing the level of Federal spending and allowing a tax reduction for the general public. Murray Weidenbaum writes that Congress is unable to resist these pressures because of its inadequate budget review procedures. Weidenbaum cites:

. . . a lack on the part of Congress of effective budget reviewing tools and mechanisms to assist it toward wise decisions in the determination of the amounts of public funds that should be expended and in the allocation of these funds among the various government programs.⁵¹

The Constitution created a bicameral Congress, to consist of a Senate and a House of Representatives. Just as a tripartite division of power and authority exists between the Executive, Legislative and Judicial Branches, so also does a balance of power exist between the two bodies of Congress. Bicameralism, chosen by the founding fathers for its added protections for civil liberties, results in certain inherent operational inefficiencies. The Senate and the House conduct duplicate hearings, perform duplicate work and pass duplicate legislation. Ultimately, it is necessary to reconcile these duplicate efforts in a Conference Committee.

⁵¹Weidenbaum, "Federal Budgeting," p. 2.

Critics of Congress complain about the degree of duplication and assert that the resulting Conference Committee procedure grants the Committee and Subcommittee Chairmen and the appointed members even more power and influence than they normally have. Conference Committee reports are generally accepted and the compromise measures are passed by the respective bodies almost automatically.

Final decisions are usually consensus decisions, which the politics of the particular situation will dictate. The consensus of the group, in the committee environment, will often settle on a compromise solution, and this final decision may not reflect the best judgment of the majority of the members. In Congress, political considerations invariably prevail over economic rationalization or optimization, whenever conflicts arise.

Congressional decisions are usually based on information, often partial, provided by the spending departments and agencies themselves. The Congress necessarily relies on the Executive Branch for performing the advocates' role in support of various programs and the development and presentation of alternative choices. Congress often mistrusts much of the information it receives, realizing that the data comes from a biased source. Congressmen frequently complain about a lack of information and often accuse the Executive

Branch of withholding essential information from them.

In fairness, much of this information controversy involves the type of data being requested by Congress. The Executive Branch and the Hoover Commissions tried to convince Congress that its oversight purposes could best be served by considering broad policies and programs rather than the vast amount of detail in the budget.

On the subject of information flow, or rather the lack of flow, Congress is continuously criticized for its poor utilization of the Bureau of the Budget and the General Accounting Office. During the congressional phase of the budgetary process, BOB officials could provide authoritative information regarding the President's budget decisions and the supporting rationale used in reaching his decisions. These representatives would have an objective and broader view of government-wide practices and programs, and would be able to advise Congress concerning departmental performance criteria, workload statistics, and cost estimates. BOB personnel could offer assistance to the Congress in investigating reports of unsound administrative practices and provide other helpful information required by the committees.

Congress is also criticized for not using the General Accounting Office to a greater extent in the budgetary review process. Due to GAO's vast experience in Executive Branch

operations, qualified GAO representatives could assist Congress in evaluating budget requests. As an arm of the Congress, GAO is not bound by Executive constraints or organizational ties.

Some of the preceding criticisms arise simply because the originator has failed to comprehend the nature of politics and the political process. The congressional phase of Federal budgeting is, after all, primarily political. Members of Congress are politicians, not economists or systems analysts. They live and work and achieve success in a political world. It is their nature to seek compromise and consensus. A sub-optimal solution which helps everyone a little is preferable to an optimum solution which may result in adverse political repercussions. Economic rationality and optimum decision analysis do not always coincide with the realities of political life. In concluding this section, an appraisal of the political process vis a vis the systems analysis approach to problem solving is most relevant. In his pamphlet, Systems Analysis and the Political Process, James R. Schlesinger has described the dichotomy between the two approaches to decision-making:

Systems analysis applies to substantive issues susceptible to definition, where linkages exist among costs, technologies, and closely related payoffs. The criterion is some substantive (and presumably measurable) utility which is more or less directly relevant to the

enhancing of national security or citizen well-being. The pride of systems analysis is its ability to take a long run view and to disregard prior commitments, if they are too costly or non-productive. By contrast, in politics one is concerned with more than the substantive costs and benefits involved in a specific decision area. One is engaged in mobilizing support by words and by actions over a wide range of ill defined issues. The ultimate criterion will remain the psychological and voting responses of the general electorate and of important pressure groups. Positive responses in this realm are only irregularly correlated with those actions preferred on the basis of cost-benefit criteria. The focus of political action tends to be short run. The wariness with which the approaching election is watched is tempered only by the precept that the half-life of the public's memory is approximately three months.⁵²

The following Chapter discusses significant efforts at reform which have been attempted to correct the deficiencies described in this Chapter. Although past efforts at congressional reform have been singularly unsuccessful, the attempts at solving certain problems provide confirmation that Congress does, in fact, recognize its deficiencies. It remains to be seen whether Congress views these deficiencies with sufficient alarm as to actually result in the initiation of reform and/or reorganization legislation.

⁵²James R. Schlesinger, Systems Analysis and the Political Process, (Santa Monica: The Rand Corporation, 1967), p. 7.

CHAPTER V

CONGRESSIONAL ATTEMPTS AT REFORM

Reforms of 1919-1921

This Chapter describes several of the more significant attempts at reform by Congress. Some of these efforts have been discussed, at length, earlier in this report, and will be mentioned only briefly here.

The first major budgetary reform was the enactment of the Budget and Accounting Act of 1921. This Act has been described in Chapter III. It is sufficient here to note that this legislation indicated recognition and concern on the part of Congress regarding inadequacies in the appropriations/expenditures process. The Act of 1921 established the national budget system and granted the President authority and responsibility for submitting a unified Federal financial plan. The Bureau of the Budget was established to assist the President with the national budget system. The General Accounting Office and the Comptroller General were established as direct agents of Congress and as a counter-balance to the Bureau of the Budget. In 1920, the House re-established a single Appropriations Committee. This change failed to

achieve the desired degree of coordination and control over the appropriations process. Almost immediately after re-establishment of a single committee, several subcommittees were formed in order to enable the House to cope with the greatly increasing workload.

Reforms of 1946

The next major effort at reform was the Legislative Reorganization Act of 1946. This Act has also been described in Chapter III. The Legislative Budget was included among the reforms enacted by this Act. The Legislative Budget was an effort on the part of Congress to focus attention, for the first time, on the President's budget as a whole. This concept envisioned congressional consideration of the President's total financial plan, including expenditures and estimated revenues. A Joint Committee comprised of members of the appropriations and revenues committees from both Houses was expected to review the total budget, consider both expenditures and estimated revenues, and establish by concurrent resolution a fixed ceiling on appropriations. The ceiling or maximum amount that could be appropriated was to have been reported to Congress for approval by February 15, of each year.

However, time limitations were too short to conduct

a realistic review of the budget as a whole. Furthermore, the Joint Committee was too large and unwieldy for effective productivity. The Legislative Budget was first attempted in 1947, but the Joint Committee could not reach agreement on a ceiling. In 1948, the Joint Committee successfully agreed on a ceiling, but the maximum was not enforced by either body of Congress. The concept was never tried again. Originally enacted as Section 138, of the Legislative Reorganization Act of 1946, the Legislative Budget is still effective. The enabling section has never been repealed or amended.

The Employment Act of 1946 established the Joint Committee on the Economic Report, which is now the Joint Economic Committee. This committee performs an educational service for Congress and the public at-large. The Joint Economic Committee holds public hearings during which testimony is received from the several economic advisors to the President and other economists in the public and private sectors. As a result of these hearings, the total financial plan and economic policies of the government are placed in perspective. The Joint Economic Committee is not included in the formal budgetary process and does not participate in reviewing and approving authorization and/or appropriation legislation.

The Omnibus Appropriations Act, 1950

Another ill-fated attempt at budgetary reform was the Consolidated Appropriations Act of 1950, known as the Omnibus Appropriations Act. This was another effort on the part of Congress to conduct a review of the President's total financial plan. Rather than processing a number of separate appropriations bills through the various subcommittees, all appropriations were consolidated into one omnibus bill. With most congressional interest and pressure for adoption coming from the Senate, the concept was put to a test on a voluntary basis in 1950. The appropriations being considered were applicable to Fiscal Year 1951. The House Appropriations Committee did not like the idea and subsequently voted to return to the traditional procedure of processing individual appropriations bills. The omnibus appropriations concept, rejected after one trial, had two inherent disadvantages:

1. Non-controversial measures were included together with controversial ones. Appropriations legislation moved at the pace of the slowest component. The Senate was unable to commence action on any element until the House had completed action on the entire package. As a result, the new procedure was blamed for delaying the appropriations acts. This charge

can be lessened, if not outright refuted. The actual legislative schedule of the omnibus measure from its introduction to enactment is discussed hereafter.

2. The President was not granted power of the "item veto." The Omnibus Appropriations Act was a potential catch-all for appropriations riders. The President was powerless to veto any specific item without vetoing the entire appropriations package for the Federal government.

The second, of these disadvantages, is considered to be valid. However, the allegation that the omnibus appropriations concept was inherently slow merits further investigation. The legislative schedule reveals that the bill was processed with lightning-like speed as compared to some Fiscal Year 1970 appropriations:

CONSOLIDATED APPROPRIATIONS ACT OF 1950 (FY 51)

Legend

March 21	House Appropriations Committee reported out Omnibus bill
May 10	House passed bill
July 8	Senate Appropriations Committee reported out Omnibus bill
August 4	Senate passed bill. Three week Conference Committee
September 6	President signed Omnibus Appropriations Act

The Fiscal Year 1950 budget was not signed by the President until October 29, 1949. Advocates of the omnibus appropriations approach claimed that it required less time,

promoted fuller and more informed debate and resulted in budget reductions.

Joint Committee on the Budget

Establishment of a Joint Committee on the Budget was another reform proposal. Senator John L. McClellan (D. Arkansas) introduced a bill in the 81st Congress (1950) proposing the creation of such a Committee. The Committee would be comprised of fourteen members; seven from each appropriations committee. Representation would consist of four majority members and three from the minority. Chairmanships would rotate between the House and Senate on alternate years. The Senate has passed the measure in one form or another almost every year since 1952. However, the House has never allowed debate or vote on the proposal.

A Joint Committee on the Budget would enable Congress to review the budget as a whole. Other provisions of the bill would:

1. establish a joint appropriations professional staff;
2. promote closer working relationships and cooperation between appropriation committees;
3. enlarge the role of the General Accounting Office; and,
4. improve coordination and communication between the appropriations committees and substantive committees.

Although considered by some to be a promising proposal, the Joint Committee approach has not been embraced by the House. Two typical evaluations of the House position, regarding this particular reform, are:

An abortive effort was made, in 1952, to strengthen Congressional control over Federal expenditures by establishing a Joint Committee on the Budget, to consist of 14 members drawn from the two Appropriations Committees. Passed by the Senate and the House Rules Committee, it was killed on the floor when the House refused to take it up. Representative Cannon (D. Missouri) had denounced the proposal as an invasion of the constitutional prerogatives of the House to initiate appropriations bills.⁵³

. . . the House of Representatives has consistently withheld approval of Senate bills to create a Joint Committee on the Budget, and no vote has been permitted on the merits of the proposals. As a result of this inaction, Members of Congress and the Appropriations Committees continue to labor under a tremendous handicap in passing judgment on budget requests for the Executive Branch of the government.⁵⁴

Representative John Taber (R. New York) voiced House objections when he expressed concern over the possible loss of initiative for appropriations measures and the loss of power to a Joint Committee "who might not have the same approach that the House Committee on Appropriations might have."⁵⁵

⁵³Federal Economic Policy, p. 39.

⁵⁴U. S. Congress, Senate, Committee on Government Operations, Financial Management in the Federal Government, S. Rept. 1961, 87th Cong., 1st sess., 1961, p. 197.

⁵⁵Ibid., p. 216.

Fiscal/Legislative Sessions

Senator Warren G. Magnuson (D. Washington) has introduced legislation (S. 2846 in the 85th Congress and S. 1838 in the 86th Congress), acknowledging the problems of the present appropriations process in Congress. Senator Magnuson would establish a separate Fiscal Session, when only money bills could be considered, from November through December 31 of each year. A Legislative Session would be held from January through October 31, unless Congress adjourned earlier. This bill would also change the fiscal year to coincide with the calendar year. The President would submit his budget by July 15. The Senator expressed hope that this reform would enable more members of Congress to become better informed about the budget and its contents.

The bill would require a separate report of government owned capital assets and the asset value, and a report to the Secretary of the Treasury on the value of reimbursables accrued by each department and agency would be required. Both of the proposed bills died in the Committee on the Judiciary without action. The measure was again introduced in the 91st Congress. The current form and content of the proposal will be analyzed in the following Chapter.

The Budget as a Whole

The Eisenhower Administration recommended a concept

for improving the congressional budget review process. Called the "Budget as a Whole," the concept was really very simple. The recommendation was that Congress should continue to process the budget in its usual, piecemeal fashion. The various subcommittees would retain their final "mark-up" and report of recommendations and, then, conduct a review of the total budget after completion of all subcommittee action. The House Appropriations Committee rejected this idea summarily, and called it unrealistic and impractical. The Administration was accused of failing to understand the fundamentals of the budgetary process. However, several states reportedly used a budgetary system similar to that suggested. The appropriations committees hold their individual recommendations until such time as all units are ready to report, then serious attention is directed to the total level of expenditures in relation to estimated revenues. If deficits are likely to occur, appropriations are further reduced or methods must be found to increase revenues.

A related proposal for keeping Congress informed of the total amount of funds that have authorized was suggested by Murray Weidenbaum. Called a Budgetary Scorecard, the concept provides for maintaining a running balance of money amounts included in appropriations and authorizations as the measures are approved. The Budgetary Scorecard is:

. . . a procedural means of enabling congressional

committees and subcommittees, and the Congress as a whole, to focus attention on the total budget picture as actions are taken on individual bills appropriating funds or creating new expenditure programs.⁵⁶

Having listed the several reforms and changes attempted in the past, as well as those proposals which have been suggested, but not tried, the following Chapter turns to the description, analysis and evaluation of reform legislation pending in the 91st Congress. Only legislation introduced in the current session is considered active. If these measures are not acted upon by the time Congress adjourns its 2nd session, the legislative process must be re-initiated in the 92nd Congress.

As stated earlier, Senator Magnuson has re-introduced his proposal for Fiscal/Legislative Sessions. It may not come as a great surprise that a proposed legislative Reorganization Act has been favorably reported out by the Committee on Government Operations in the Senate. An identical measure is being considered by a Subcommittee on Legislative Reorganization of the House Rules Committee. These proposals are discussed and analyzed in Chapter VI.

⁵⁶Weidenbaum, "Federal Budgeting," p. 89.

CHAPTER VI

REFORM LEGISLATION BEFORE THE 91st CONGRESS

The Fiscal Act of 1970

Senator Magnuson's proposal for separate legislative and fiscal sessions is currently titled the Fiscal Act of 1970 (S. 3113). In addition to providing a session of Congress for legislation and a session for appropriations bills, the measure also establishes the calendar year as the governmental fiscal year. Mr. Magnuson, Mr. Baker, Mr. Byrd of West Virginia, Mr. Dole, and Mr. Mansfield are listed as co-sponsors of S. 3113. The concept has been introduced by Senator Magnuson several times in the past, but the bill has never reached the floor for debate or vote. The Judiciary Committee has been the graveyard in the past, but this session the bill was referred to the Committee on Government Operations.

The proposal recommends that congressional sessions would begin in January, and end on the first Monday in November, and would be called Legislative Sessions. Congress would reassemble on the second Monday in November for the purpose of considering appropriations bills and resolutions. This session, ending on December 31, would be called a Fiscal

Session. Only bills and resolutions relating to appropriations would be considered during Fiscal Sessions and, correspondingly, only substantive measures would be considered during Legislative Sessions. The Fiscal Act of 1970 provides for the regular functioning of standing committees during both sessions. Thus, committees would be allowed, under the rules prevailing in the two bodies, to hold hearings or perform any other business under their particular jurisdictions. There are, of course, the usual safeguards and exceptions for national security matters. In the event of an emergency, foreign or domestic, the President could advise Congress that expedited legislative action is warranted. Thereafter, the emergency measure would be immediately considered by Congress.

The Committees on Appropriations in the House and the Senate would be allowed to hold hearings during the Legislative Sessions, but would not be able to report out appropriations bills until the Fiscal Session. However, bills and resolutions required to enact supplemental and deficiency appropriations for the current fiscal year would be in order for reporting during any Legislative Session.

Title II of the Act, provides that the fiscal year of the Treasury of the United States, in all matters of accounts, receipts, expenditures, estimates, and appropriations would commence on January 1, 1973, and would end on December 31, 1973. The bill further provides for effecting the change

in fiscal years by extending the fiscal year commencing on July 1, 1971 to December 31, 1972. Thereafter, the government's fiscal year would run from January 1, to the following December 31. Appropriations for each fiscal year after 1973 would be enacted during the Fiscal Session immediately preceding.

Senator Magnuson proposes that the President submit the budget on or before July 15, preceding the fiscal year.

An added provision in this bill requires that the Executive include a statement in the budget showing the capital assets of the Federal government and the capital asset value as of the end of the last completed fiscal year.

Introduced in the 91st Congress, on November 4, 1969, the bill was referred to the Committee on Rules and Administration. On January 21, 1970, the Committee on Rules and Administration discharged the bill and referred it to the Committee on Government Operations.⁵⁷

In January, 1970, a staff member of the Senate Committee on Government Operations was interviewed concerning the bill's status. He said that it was "hot," and that the leadership in the Senate was strongly advocating congressional reform. He noted that the bill was "well sponsored" by senior Senators. The bill, he thought, would get quick

⁵⁷U. S. Congress, Senate, Fiscal Act of 1970 (A Bill), S. 3113, 91st Cong., 2nd sess., 1970, pp. 1-9.

consideration and approval in the Senate.

This optimism has proved to be unfounded. In mid-March, the Government Operations Committee staff member disclosed that the measure had been routed to the Executive Branch for comments. The staff member further advised that no committee action was currently scheduled on the bill.

Congressman Louis C. Wyman (R. New Hampshire) expressed a number of objections to Senator Magnuson's proposal during the former's testimony before the Subcommittee on Legislative Reorganization in the House. Congressman Wyman observed that by adopting the proposal, Congress would commit itself to a full year schedule. Although recent sessions of Congress have continued into December, the proposed legislation would make November-December sessions a matter of law. It is not believed that many congressmen would be eager to accept a year-around schedule with such finality, and further, to pass a law thereby "setting it in concrete." Congressman Wyman further noted the fact that on alternate years some representatives who had not been re-elected would be deciding and voting on appropriations matters. Eventually, he predicted, there would surely be appropriations "hold overs" extending beyond December 31. This would be especially true if other reforms in the

congressional budgetary process were not accomplished.⁵⁸

The proposed time frames for the Legislative and Fiscal Sessions would provide five and one-half months for congressional review of the budget. If the President submits the budget on July 15, the Appropriations Committees would have to compress their hearings schedule and "mark-up" into three and one-half months (July 15-November 1). This does not seem to be a very realistic proposition in view of recent lengthy budget review proceedings.

In an interview, Mr. Paul M. Wilson, Chief Clerk and staff Director for the House Appropriations Committee, questioned the rationale for delaying the submission of the budget to Congress. Mr. Wilson doubted that Congress would agree to waiting around the Hill, from January until July 15, before it could get started on the President's financial program. Mr. Wilson also questioned whether Congress was ready to accept a full year schedule, and further, that it would pass a binding law to that effect.⁵⁹

The Legislative Reorganization Act of 1969/1970

The major item of reform legislation now on the

⁵⁸U. S. Congress, House, Committee on Rules, Legislative Reorganization Act of 1970, Hearings, before a subcommittee of the Committee on Rules, House of Representatives, 91st Cong., 1st sess., 1969, p. 307.

⁵⁹Paul M. Wilson, Chief Clerk and Staff Director, House Appropriations Committee, interview at the Capitol, Washington, D. C., March 13, 1970.

calendar of the 91st Congress is the Legislative Reorganization Act of 1969. This bill (S. 844) was introduced by Senator Karl E. Mundt (R. South Dakota), and had the following co-sponsors: Senators Boggs, Case, Fannin, Griffin, Metcalf, Percy, Sparkman, and Stevens. Introduced on February 4, 1969, the measure was referred to the Committee on Government Operations. Reported out of committee favorably and without amendment, on May 23, 1969, it was placed on the Senate calendar (No. 192) to await call to the floor by the leadership.⁶⁰

In recommending that the bill pass, the following legislative background was included in the Committee Report:

S. 844 would be known as the Legislative Reorganization Act of 1969 and would implement most of the principal recommendations contained in the final report of the Joint Committee on the Organization of the Congress, filed in the Senate in the 89th Congress (S. Rept. 1414). With one major exception and certain minor revisions, S. 844 incorporates virtually all of the provisions of S. 355 which passed the Senate by a rollcall vote of 75 to 9, on March 7, 1967, following 17 days of debate, 31 rollcall votes, and the adoption of 40 amendments. It was referred to the House Committee on Rules which held a hearing on April 10, 1967, and took no further action.

The major exception referred to is the omission of title V of S. 355, dealing with the regulation of lobbying; the minor revisions relate primarily to matters which have been taken care of either administratively or in other legislation, and technical and conforming amendments designed to update the earlier measure.⁶¹

⁶⁰U. S. Congress, Senate, Legislative Reorganization Act of 1969 (A Bill), S. 844, 91st Cong., 1st sess., 1969, p. II.

⁶¹U. S. Congress, Senate, Legislative Reorganization Act of 1969, S. Rept. 91-202 to Accompany S. 844, 91st Cong., 1st sess., 1969, p. 1.

The Legislative Reorganization Act of 1969 (S. 844) proposes a number of significant congressional changes, however, several of these are beyond the scope of this paper. Many of the recommendations do not pertain to the congressional phase of the Federal budgetary process. Specifically, Title II, of the bill, pertains to Fiscal Controls. In order to convey the sweeping nature of the bill and to provide a degree of continuity for the several reform proposals, a resume' of the measure's contents is provided.

In reporting the bill, the Committee cited the following primary objectives and principal provisions:

. . . to improve and strengthen the organization and operation of the Congress in order to enable it more effectively to exercise its constitutional responsibilities and cope with its ever-increasing workload.

It (S. 844) provides for: (1) modifications in standing committee procedures relating to the powers of committee chairmen, hearings, reporting of measures, proxy votes, and the exercise of more effective legislative oversight by such committees; (2) the establishment of more effective fiscal controls, including new procedures for congressional review of the Federal budget, increased utilization of the General Accounting Office, and new fiscal responsibilities in the legislative standing committees; (3) expansion of, and improvements in, congressional sources of information, including enlargement of permanent professional staffs and Members' staffs, and a reorganization of the Legislative Reference Service; and, (4) improvements in internal organization and administration relative to housekeeping activities, including the establishment of a permanent Joint Committee on Congressional Operations, an Office of Placement and Management, a reorganized, professional Capitol Police Force and Capital Guide Service, a mandatory adjournment date, of July 31, and a prohibition of sessions in August, in the absence of a congressionally declared state of war, and appointments of postmasters in the competitive civil service without Senate

confirmation or any congressional intervention.⁶²

The Committee referred to the estimated total annual cost of all of the recommended changes as being approximately \$5 million. This estimate was originally reported by the Senate Special Committee on Organization of the Congress in connection with the Legislative Reorganization Act of 1967 (S. 355).⁶³

The specific provisions of the Legislative Reorganization Act of 1969 (S. 844), which are relevant to this report, are those under Title II, Fiscal Controls. Title I, deals with a number of changes in committee procedure, hearings, reports, etc., but specifically excludes the Appropriations Committees in the two bodies.

The background leading to S. 844, is both informative and necessary to a full understanding of the Act's present status. The Joint Committee on the Organization of Congress (89th Congress, 2nd Session), in Report 1414, found that:

1. the nation's growth and the increasing complexities of our commitments at home and abroad, over the past twenty years, had placed a heavy burden on the budgetary process for the Executive and Legislative Branches;

2. since the Budget and Accounting Act of 1921, the Bureau

⁶²Ibid., p. 2.

⁶³U. S. Congress, Senate, Legislative Reorganization Act of 1967, S. Rept. 1 to Accompany S. 355, 90th Cong., 1st sess., 1967, p. 2.

of the Budget had presented a single budget document reflecting appropriations for all executive departments and agencies;

3. the President had continued to incorporate improved budgetary methods in order to make administration and control more effective within the Executive Branch;

4. these improved methods included program budgets and the rational selection of alternatives based on output;

5. the Planning, Programming, and Budgeting System had been adopted to define objectives and goals, to find adequate measures of performance toward these objectives and goals, and to analyze the various alternatives with a view toward determining the comparative benefits and costs of each competing program; and,

6. that these new concepts of cost-effectiveness and cost-benefit studies, in addition to their use in formulating the budget, have also improved the quality of budget submissions.

The Committee (Monroney Committee) further found, as reported by the Committee on Government Operations:

. . . that: (1) the Constitution vests in the Congress the absolute power to determine how much the government will spend on each program and the total extent of Federal spending; (2) Congress has not equipped itself to enable it to exercise its fiscal responsibilities meaningfully and effectively; (3) as a result, Congress conducts a fragmented budget study and finds it difficult to make a comprehensive, overall evaluation; (4) the increase of total Federal spending, the use of the executive budget and the development of more sophisticated techniques of budget analysis all make congressional control of fiscal policy more difficult; and, (5) if Congress,

which now shares its fiscal powers with the Executive Branch, is to maintain effective control over Federal spending, budgetary and fiscal data must be collected, processed, evaluated, and promptly made available to its Members.⁶⁴

The Monroney Committee published 15 volumes of testimony with related documents totalling 2,322 pages. The Committee heard 199 witnesses, including 17 Senators and 59 Representatives. Four Senators and 26 Representatives submitted written statements for the record. Congressional witnesses represented a total of 997 years of service in Congress.⁶⁵

As a result of these hearings, the Committee concluded that Congress would have to effect certain improvements in order to better perform and discharge its constitutional fiscal responsibilities. Corrective actions deemed necessary for improving congressional performance included:

1. Members of Congress should have access to relevant budget information, so that they can make rational judgments on the spending levels of competing programs.
2. Congress should place greater emphasis on the budget as a whole.
3. Congress should place greater emphasis on major programs and policies instead of the details and items of expenditure.

⁶⁴Legislative Reorganization Act of 1969, S. Rept. 91-202, p. 10.

⁶⁵U. S. Congress, Senate, Organization of Congress, S. Rept. 1414 Pursuant to S. Con. Res. 2, 89th Cong., 2nd sess., 1966, p. 3.

4. The General Accounting Office should be utilized to a greater extent in evaluating budgetary requests.

5. The substantive committees should acknowledge and assume greater responsibility for exercising fiscal control when authorizing new or expanded programs.

In effecting these needed improvements, the Legislative Reorganization Act of 1969 gives an enlarged role to the General Accounting Office (GAO) in budget review and requires GAO to provide a variety of budgetary and fiscal information to Congress. The Act extends the Planning, Programming and Budgeting system to Congress as a technique for reviewing the budget. The President's budget is required to include greater fiscal detail and extended forecasts on a project or program basis. The Act repeals the dormant provisions of the Legislative Reorganization Act of 1946, such as the Legislative Budget. New procedures are instituted which enable Congress to consider the executive budget as a whole. The substantive committees are required to submit cost estimates for five years, or the life of the project whichever is shorter, for new programs and activities, and, if possible, convert all permanent authorizations to an annual appropriations basis. Finally, the Act requires rollcall votes on all bills increasing or decreasing the compensation of members of Congress and on final passage of all appropriations

measures.⁶⁶

A review of the proposed Legislative Reorganization Act of 1969 reveals the following specific changes in the budgetary process.

The General Accounting Office, the Bureau of the Budget, and the Secretary of the Treasury are required to develop and maintain a government-wide, standardized information and data processing system for budgetary and fiscal data, and to establish standard classifications of programs, activities, receipts, and expenditures. Another requirement levied on the General Accounting Office is the compilation of current budget information, including changes in budget totals resulting from appropriations actions, new legislation, changes in revenue estimates, and new or supplemental appropriations requests. This innovation suggests the Scorecard proposal of an earlier day. Lastly, the General Accounting Office is required to have available a staff of cost-effectiveness experts who are on call by the congressional committees to assist them in the analysis of studies furnished by the executive departments and agencies, or in making independent studies for Congress.

The President is required to transmit summaries of: estimated expenditures for the next four years for all

⁶⁶Legislative Reorganization Act of 1969, S. Rept. 91-202, p. 11.

continuing programs; and, estimates as to the rate of future expenditures of those balances carried over from previous fiscal years. In addition, the President is required to report to Congress on June 1, of each year, a supplemental summary of the budget reflecting significant changes in receipts and expenditures which have occurred since the preparation and submission of the Federal budget the preceding January. Again, this requirement has the flavor of the Scorecard idea. It serves the primary purpose of keeping all members of Congress informed regarding the Federal financial program as a whole.

In an effort to correct the fragmented approach to budget review and to compensate for the substantial autonomy of appropriations subcommittees, S. 844 attempts to accomplish a review of the budget as a whole. The Appropriations Committees in each House are required to hold hearings on the budget within thirty days after its submission by the President. During these hearings, the Director of the Bureau of the Budget, the Secretary of the Treasury, and the Chairman of the Council of Economic Advisors would testify as to the considerations and assumptions upon which the Federal budget is based. The Act further provides that these hearings may be held before joint meetings of the Senate and House Appropriations Committees, that the testimony of witnesses will be in open hearings and that transcripts of testimony

and hearings will be made available to all members of Congress.

As recommended by the Joint Committee on the Organization of Congress, the Legislative Reorganization Act of 1969 would make the following additional changes in the Federal budget process. Committee reports on each appropriations measure would contain: an analysis of the major factors taken into consideration by the committee in reporting and recommending appropriations; and, a statement of the consideration given to cost-effectiveness studies or analyses conducted by the Executive Branch or by other congressional committees, including information as to where members of Congress may obtain copies of such studies. Special requirements are levied on committee reports recommending supplemental and/or deficiency appropriations. These reports would be required to explain why the appropriations were not included in the regular appropriations bill or why they could not wait until the following fiscal year. Obviously, the primary intent is to discourage the submission of supplemental and deficiency appropriations requests.

A major change being proposed is the requirement for open hearings in both the Senate and the House. Open hearings are required unless specifically precluded for reasons of national security, or ruled to be confidential under law or regulation, etc. If open, hearings are subject to coverage by the various news media, including telecasting,

broadcasting or both.

In its expansion of the utilization of the General Accounting Office in the budgetary process, the Act requires the Comptroller General:

1. to furnish the Senate and House Committees on Appropriations and Government Operations copies of all GAO reports, and to furnish all other congressional committees with copies of those reports dealing with matters under their respective jurisdictions; and,
2. to designate GAO representatives to explain and discuss their reports with interested congressional committees, or committee staffs, in order to assist in their consideration of proposed legislation.

The Act specifically requires that all Federal departments and agencies submit to the House and Senate Appropriations Committees a statement of action taken in response to GAO reports and recommendations. Such reports are required coincident with the department or agency's first request for appropriations submitted more than sixty days after the date of the GAO report.

Lastly, under Title II, the Fiscal Control area, controls are tightened over authorization of new programs and activities. Specifically, the bill requires that all substantive committees include in committee reports authorizing new programs:

1. a projection, made by the committee, of costs to be incurred in carrying out such legislation for the then current fiscal year and each of the following five fiscal years;

2. an estimate of gain or loss in revenues for a one year period with respect to measures affecting revenues; and,

3. a comparison of such cost estimates with any made by the Executive Branch.

The bill requires substantive committees to make every effort to authorize new programs on, and transform existing continuing programs to, an annual appropriations basis.⁶⁷

The Legislative Reorganization Act of 1969 is, indeed, a far-reaching proposal for congressional reform. An almost identical bill has passed the Senate each year since the original report (S. Rept. 1414) of the Joint Committee on the Organization of Congress in 1966. S. 3848 was passed in the Senate in 1967. In 1968, S. 355 was passed in the Senate by a vote of 75 to 9. Both measures died in the House Committee on Rules.

The stage for congressional reform is again set. S. 844 has been favorably reported out, without amendment, by the Senate Committee on Government Operations. The measure is on the Senate calendar (Number 192), and awaits the call of Senate leadership for floor consideration. As of mid-March,

⁶⁷Legislative Reorganization Act of 1969 (A Bill), S. 844, pp. 41-58.

1970, staff personnel on the Committee on Government Operations advise that the measure has not been scheduled as yet. The consensus of opinion is that the Senate is waiting for some sign of action in the House. Similar legislation is pending in the House Rules Committee. Twenty separate bills, all nearly identical to each other, and to S. 844, have been introduced in the House and referred to the Committee on Rules. Rather than pass S. 844, and forward it to the House, which has been unsympathetic to reform legislation in the past, the new Senate strategy seems to be "let's wait and see what the House does."

However, the optimism, that was originally present in December, 1970, in discussing reform legislation with congressional staff members, is noticeably waning. Remembering the cordial interviews of last December and January, which described strong advocacy for reform among Senate leaders, the mid-March response to a request for a follow-up interview came as a surprising, and disappointing, statement that "nothing had changed." The professional staff members on congressional committees must find the lack of legislative progress difficult to explain to outsiders. Efforts expended on reform legislation have not often been rewarded by quick passage of the relevant bill. It is not too difficult to explain a growing pessimism among the personnel involved.

After this lengthy discussion of Senate action (or

inaction) on reform legislation, attention is now directed to the House. Unlike the Senate, congressional reform is not a "hot" subject in the House. Neither, however, would it be correct to state that reform is a "dead" issue. At times, there are indications of significant House interest in change. Since none of the reform proposals have been brought to the floor, there is no way to quantify this interest in precise terms. However, an approach to quantification may be found in an analysis of legislation recently introduced on the subject of reform. The House Rules Committee reports that no less than twenty bills on legislative reform have been introduced in the 91st Congress. All are based on the findings and recommendations of the Joint Committee on the Organization of Congress (Monroney Committee). A tabulation of bills and sponsors follows:

- H.R. 2185 - Legislative Reorganization Act of 1969 (Each of the following bills have this same title) -
Introduced by Mr. Hall (for himself and Mr. Cleveland) on January 6, 1969. For all intents and purposes, this measure is identical to S. 844, except that it includes Title V - Regulation of Lobbying. Messrs. Hall and Cleveland served on the Joint Committee (Monroney Committee).
- H.R. 2186 - Introduced by Mr. Smith of California, on January 6, 1969. Similar to H.R. 2185 and S. 844.
- H.R. 2187 - Introduced by Mr. Smith of California, on January 6, 1969. Identical to H.R. 2186 except that it omits Title V - Regulation of Lobbying.
- H.R. 2713 - Introduced by Mr. Reid of New York, on January 9, 1969. No significant changes included.
- H.R. 6278 - Introduced by Mr. Rumsfeld (for Himself, Mr. Cleveland, Mr. Schwengel, Mr. Anderson of Illinois, Mr. Taft, Mr. Fiester, Mr. Brock, Mr. Bush,

Mr. Conable, Mr. Coughlin, Mr. Dellenback, Mr. Erlenborn, Mr. Grover, Mr. Harvey, Mr. McClory, Mr. MacGregor, Mr. Michel, Mr. Morse, Mr. Morton, Mr. Quie, Mr. Railsback, Mr. Ruppe, Mr. Steiger of Wisconsin, Mr. Whalen, and Mr. Wydler) on February 5, 1969. This measure includes the Title V - Regulation of Lobbying.

Due to their being exactly identical, the following bills, introduced under title of Legislative Reorganization Act of 1969, were not separately printed: H.R. 7371; H.R. 7372; H.R. 7894; H.R. 8973; H.R. 9331; H.R. 9791; H.R. 10597; and, H.R. 11103.

H.R. 8158- Introduced by Mr. Eshleman (for himself, Mr. Saylor and Mr. Fulton of Pennsylvania) on March 4, 1969. Includes Title V - Regulation of Lobbying.

H.R. 10426- Introduced by Mr. Rees (for himself, Mr. Jacobs, Mr. Adams, Mr. Hathaway, Mr. Hamilton, Mr. Gibbons, Mr. St. Onge, Mr. Howard, Mr. Eilberg, Mr. Ottinger, Mr. Leggett, Mr. Diggs, Mr. Scheuger, Mr. Rosenthal, Mr. Boland, Mr. Brown of California, and Mr. Mikva) on April 22, 1969. Includes Title V - Regulation of Lobbying.

Due to their being identical, the following bills, introduced under title of Legislative Reorganization Act of 1969, were not separately printed: H.R. 10427 and H.R. 11763.

H.R. 11475- Introduced by Mr. Cleveland (for himself, Mr. Rees, Mr. Adams, Mr. Anderson of Illinois, Mr. Biester, Mr. Brademas, Mr. Brock, Mr. Conable, Mr. Fraser, Mr. Gibbons, Mr. Hamilton, Mr. Hathaway, Mr. Howard, Mr. Hungate, Mr. Jacobs, Mr. Lowenstein, Mr. MacGregor, Mr. Morton, Mr. Moss, Mr. Reuss, Mr. Rumsfeld, Mr. Schwengel, Mr. Steiger of Wisconsin, Mr. Taft, and Mr. Bob Wilson) on May 20, 1969. Includes Title V - Regulation of Lobbying.

Due to their being identical, the following bills, introduced under title of Legislative Reorganization Act of 1969, were not separately printed: H.R. 11686 and H.R. 12586.

All bills were referred to the House Committee on Rules. The Committee on Rules assigned jurisdiction to its Subcommittee on Legislative Reorganization, which was specifically formed for this purpose. The Subcommittee, chaired by

Congressman Sisk, subsequently decided that only three of the bills differed sufficiently in content to warrant separate attention, and thus, H.R. 2185, H.R. 2186 and H.R. 11475 were selected. All of these bills are nearly identical. The major differences involve Title V - Regulation of Lobbying. Some of these bills dropped this Title before being introduced. All of the bills have their genesis in the hearings and report of the Joint Committee on the Organization of the Congress. An item-by-item review of each of these measures revealed no significant deviation from S. 844, as passed in the Senate. The provisions of the several bills, under Title II - Fiscal Controls, are nearly identical, with only minor differences in wording and space arrangement.

The Subcommittee on Legislative Reorganization held hearings on October 23, 30; November 6, 13, 20; and, December 3, 4, and 5, 1969. Thirty-six members of Congress appeared and testified in person. Forty-four members of Congress, including one Senator, submitted statements and letters. There were fifteen witnesses other than members of Congress, including representatives from the various news media, Bureau of the Budget, Library of Congress and the Capital Guide Service. The printed record of hearings and related documents total 453 pages.⁶⁸

Miss Jonna L. Cullen, Staff Member for the Subcommittee,

⁶⁸Legislative Reorganization Act of 1970, pp. III-V.

made available a copy of the printed hearings and provided a desk copy of a Committee Print, dated November 5, 1969. In providing the Committee Print, Miss Cullen pointedly warned that numerous and significant changes had been made in the bill by the Subcommittee.⁶⁹ As of mid-March, the Subcommittee had not reported to the full Rules Committee. After the Subcommittee reports its findings and recommendations, the full Committee may decide to reopen the issue and hold additional hearings. Staff members opted not to estimate when the report might be forthcoming. One staff member suggested strongly that a report would be submitted to the full Committee, but chose not to predict the future actions of the parent Rules Committee.

There is a strong temptation to terminate discussion at this point and cite the lack of additional factual information regarding House or Rules Committee action. However, stronger, innate curiosity demands at least a cursory review of the draft Committee Print. The Print should provide some insight into the Subcommittee's position on the legislation as of November 5, 1969. The review is, necessarily, limited to those budgetary reforms under Title II - Fiscal Controls.

Title I provides for changes in committee procedures and has been called the "Committee Members' Bill of Rights."

⁶⁹Miss Jonna L. Cullen, Staff Member on Subcommittee on Reorganization of the Committee on Rules, House of Representatives and Mrs. Forest, Staff Member, Committee on Rules, Informal interviews, The Capital, Washington, D. C., March 13, 1970.

Title I is generally regarded as the most controversial part of the bill. Some witnesses testified that the reform provisions did not go far enough in correcting deficiencies. Other witnesses voiced equally strong objections that the reforms were too drastic and really unnecessary. The Appropriations Committees in both bodies are excluded from most of the changes in committee procedure. This exclusion may be deleted before the bill is reported out, however. Many of the witnesses complained of the special privileges afforded the Committees on Appropriations, Rules and Government Operations.

The Secretary of the Treasury and the Director of the Bureau of the Budget, in cooperation with the Comptroller General of the United States, are charged with developing and maintaining a standardized information and electronic data processing system for budgetary and fiscal data. This particular language serves to remove the direct responsibility of the General Accounting Office, in comparison to the Senate bill (S. 844). The information system requires standard classifications of programs, activities, receipts, and expenditures. Treasury and BOB are required to submit annual progress reports on the development of the information system to the Congress annually in September. In addition, Treasury and BOB must advise Congress on the location and nature of data available in the Federal agencies with respect to programs, activities,

receipts, and expenditures.

The General Accounting Office is charged with reviewing and analyzing results of programs and activities, making cost-benefit studies and maintaining a staff of experts at analyzing and conducting cost-benefit studies relating to government programs.

In order to make them fiscally responsible, certain controls are established for the substantiating committees when authorizing new programs. Legislation which creates or expands any function, activity or authority must include: an estimate of cost for the first year; and, an estimate of cost for each of the following four fiscal years.

The Secretary of the Treasury and the Director of the Bureau of the Budget must submit on or before June 1, of each year, a supplemental summary of the budget reflecting: all significant alterations in or reappraisals of estimates of revenues or expenditures; all significant obligations incurred against the budget since its original submission; and, any other information necessary to provide a complete and current budget summary.

The President is required to submit, also on or before June 1, summaries of: estimated expenditures for the following four fiscal years which will be required for continuing programs with legal commitments; and, estimated expenditures in the following fiscal years of balances "carried over" from

previous periods.

The Committees on Appropriations are required to hold hearings on the budget as a whole within thirty days after submission by the President. The hearings are required to consider: the basic recommendations and budgetary policies of the President; and, the fiscal , financial, and economic assumptions used in arriving at the total estimated revenues and expenditures. Testimony would be received from the Troika - the Secretary of the Treasury, the Director of the Bureau of the Budget, and the Chairman of the Council of Economic Advisors. The hearings would be held in open session, except when expressly waived for reasons of national security. The bill provides that such hearings may be held before joint sessions of the Committees on Appropriations from the Senate and House.

Cost estimates must accompany all legislation. Substantive committees are required to submit cost estimates for the first year in carrying out proposed projects and cost estimates for each of the following five fiscal years. In the case of revenue legislation, committee reports must contain estimates of the gains or losses in revenues for a one year period. Substantive committees are further required to report a comparison of the costs, as determined by the committee, with the costs estimated by the Executive agency. Finally, if these cost estimates and comparisons are not made,

the committee report must include a statement explaining the reasons for non-compliance. If bills are reported out without these cost estimates and comparisons, the legislation is subject to a point of order.

Finally, and most importantly, Title II, Part 6, of the Committee Print, provides that the fiscal year be changed to coincide with the calendar year.⁷⁰

The foregoing summary pertains to the titles, articles and sections in the Legislative Reorganization Act of 1970, as of November 5, 1969, the date of the Committee Print. Miss Cullen, staff member of the Subcommittee, has warned that many changes have been made in the bill since November. These changes, unfortunately, are not available for public discussion and appraisal. Some indication of the reception which the measure will receive on the House floor, assuming that a reform bill of some kind eventually reaches that plateau, can be hypothesized from the testimony of congressional witnesses before the Subcommittee.

Congressman H. Allen Smith (R. California), a member of the Legislative Reorganization Subcommittee, explaining the limited scope of Title I, stated that:

99 per cent of the committee chairmen and everybody on the Appropriations Committee would be against the more

⁷⁰U. S. Congress, House, Legislative Reorganization Act of 1970 (A Bill), Committee on Rules, Committee Print No. 1, 91st Cong., 1st sess., 1969, pp. 48-72.

extreme changes being recommended by some witnesses.⁷¹

Congressman Charles W. Whalen, Jr. (R. Ohio) spoke in favor of changing the fiscal year to the calendar year. The Congressman stated a preference to have the President's budget continue to be submitted in January. He recognized that the executive departments and agencies would then have a fifteen month time period between budget submission and ultimate appropriations authority.⁷²

Congressman Odin Langen (R. Minnesota) testified in favor of changing the fiscal year to a calendar year basis. He argued that a deadline of July 1, should be established for completion of all authorization legislation. If not completed by that date, appropriations bills could precede authorizations to the floor. Representative Langen is a top-ranking member (minority) on the Appropriations Committee. Therefore, his position on the fiscal year change could be significant.⁷³

Congressman Richard L. Ottinger (D. New York) was in favor of the proposed fiscal year change. He blamed the Administration and the authorizing committees jointly for the lengthy delays in the appropriations process. Congressman Ottinger expressed concern over the numerous exceptions provided for the Appropriations Committee in the draft bill.

⁷¹Legislative Reorganization Act of 1970, p. 263.

⁷²Ibid., p. 193.

⁷³Ibid., p. 289.

He noted that exceptions related to open hearings, the seven days filing time for committee reports, and the availability of committee reports and printed hearings prior to floor debate. Appropriations measures now require three calendar days, including weekends and holidays, prior to floor debate. Other legislation requires three legislative days. The Congressman stated that he would prefer at least a week for study and analysis of appropriations bills. As an example of this short filing, he cited the Military Construction Bill, which allegedly was available only two hours before floor debate.⁷⁴

Congressman Lee H. Hamilton (D. Indiana) testified in favor of the fiscal year change; but, did not approve of the several exceptions to standard provisions being afforded to the Appropriations and Rules Committees in the draft bill.⁷⁵

Congressman Donald W. Riegle, Jr. (R. Michigan) favored the fiscal year change and stated that he and Congressman Robert H. Michel (R. Illinois), both on the Appropriations Committee, had jointly sponsored legislation to change the fiscal year to coincide with the calendar year.⁷⁶

Congressman Sam M. Gibbons (D. Florida) favored a change in the fiscal year dates and advocated that a deadline for authorizations be established at the end of September.

⁷⁴Ibid., pp. 290-293.

⁷⁵Ibid., pp. 300-301.

⁷⁶Ibid., p. 318.

Thereafter, it would be in order for appropriations bills to precede authorization measures to the floor.⁷⁷

Congressman Louis C. Wyman (R. New Hampshire) commented on his proposal (House Resolution 557) to change House Rule XXI and provide that when authorizing committees had not reported out by June 1, then appropriations measures could be brought to the floor without being subject to a point of order. House Rule XXI, Paragraph 2, states that "no appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law." Congressman Wyman stated that he believed five months was ample time for the substantive committees to work their will. If the rules were changed to establish a June 1 deadline, Congressman Wyman suggested that a change in fiscal year dates would be unnecessary.⁷⁸

There was no testimony, whatsoever, in the public hearings against the proposal to change the fiscal year. However, during the hearings, there were some interesting references to opinions held by influential members of the House. For example, Subcommittee Chairman B. F. Sisk (D. California) responded as follows to a witness testifying in favor of the fiscal year change:

I might say I think our committee is pretty well dedicated to this ideal. On the other hand, we have had some objections expressed by, let's say substantial

⁷⁷Ibid., p. 346.

⁷⁸Ibid., pp. 306-307.

members of the Appropriations Committee, and so I recognize, of course, there are differences of opinion.⁷⁹

Another reference to this difference of opinion came from Congressman John Young (D. Texas), a member of the Subcommittee on Reorganization. Congressman Young commented:

One of our distinguished colleagues who is affected a great deal by this (the fiscal year change) does not seem to think too much of it -- the Chairman of the Appropriations Committee.⁸⁰

Unfortunately, the Chairman of the Appropriations Committee did not testify before the Subcommittee in a public session. Chairman Mahon appeared before the Subcommittee in an executive (closed) session, and, therefore, a record of his current position on these various reform proposals is not available. Mr. Paul Wilson, Chief Clerk and Staff Director for the House Appropriations Committee, advised that he did not know the extent of Chairman Mahon's testimony, but believed that it primarily related to the fiscal year change. Mr. Wilson stated that while the recent executive session testimony was not releaseable, Chairman Mahon had testified at some length before the Joint Committee on the Organization of Congress in 1965. Mr. Wilson stated his belief that the Chairman's views had remained basically the same as far as he knew.⁸¹

Therefore, Congressman Mahon's testimony before the

⁷⁹Ibid., p. 289.

⁸⁰Ibid., p. 147.

⁸¹Wilson, personal interview.

earlier Committee will be briefed as the final part of this Chapter.

Before leaving this analysis and review of the hearings before the Subcommittee on Legislative Reorganization, the testimony by Philip S. Hughes, Deputy Director of the Bureau of the Budget is worth noting. In brief, Mr. Hughes testified that he favored the change in the fiscal year and that he represented the position of the Administration. However, he proceeded to explain that in the last six years, only six appropriations measures had become law by the start of the fiscal year, July 1. During this period, seven appropriations measures had taken six months or longer after the start of the fiscal year. Mr. Hughes recognized that a major cause of the delay occurred in the authorizing process. He commented on the many authorizations which expire every year and require new legislation. In conjunction with any fiscal year change, a recommendation was made that the President's budget be submitted during the first ten days of April, in order to allow the Bureau of the Budget to put together the data required. Mr. Hughes reminded the Subcommittee, that while he favored the fiscal year change, it should not be regarded as a panacea and would not be a substitute for other possible reforms in the appropriations process.⁸²

⁸²Legislative Reorganization Act of 1970, pp. 2-8.

As a final observation on the proposed Legislative Reorganization Act of 1970, a statement by Congressman James G. O'Hara (D. Michigan) reveals that not everyone was over-awed by the contents of this reform bill:

Let me say I am one of those who feels that there are a number of practices, customs and procedures in the House of Representatives that could very well stand reform and modernization. I am going to have to begin by confessing that I think the bill that I have seen, with phenomenal inaccuracy, misses most of them.⁸³

But perhaps a more fitting finale would be reference to Congressman Richard Bolling's (D. Missouri) remark on the nature of the hearings and the type of bill that the Subcommittee hoped to get reported out. He said that in his view "reorganization involved housekeeping and reform involved the power structure." He made it clear that the objective of the Subcommittee was the former, rather than the latter.⁸⁴

This Chapter has identified the various legislative proposals before the 91st Congress on the subject of congressional reform. A statement expressing the position of the powerful Chairman of the House Appropriations Committee on these various changes would have been most helpful. However, Chairman Mahon testified in executive session before the Subcommittee. In order to gain some insight into Chairman Mahon's views on the subject of congressional reform, a review of his testimony before the Monroney Committee, on August 17, 1965, will have to suffice. The following observations

⁸³Ibid., p. 374.

⁸⁴Ibid., p. 379.

on budgetary and congressional reform are attributed to Chairman Mahon and have been taken from the printed hearings, Circa 1965.

Chairman Mahon's opening remarks to the Joint (Monroney) Committee:

Government, as you know, is not an exact science. It is not a matter of mathematical calculation. Government is an art, and I think we need to approach our deliberations with that in mind.

I doubt that we should do much tinkering with the form of the legislative body. It seems likely that the greatest need is to tone up the muscles. Toning up the muscles calls for discipline and restraint . . . a type of remedy or medicine which nobody in or out of public life seems to like to take.⁸⁵

Chairman Mahon continued by assuring the Committee that Congress had not lost control of the purse, and he suggested that those critics who claimed otherwise, either were careless with their words or they were fiscally illiterate.

On the subject of increased professional staff for congressional committees, Chairman Mahon anticipated that the Appropriations Committee would have moderate staff increases, but he reflected his basic conservative orientation when he added that Congress does not need a great big staff. He reiterated that real large staffs would not solve any problems. The basic problem, Chairman Mahon believed, was the lack of resoluteness on the part of Congress. The absence of this congressional will to do its job could not be replaced by

⁸⁵U. S. Congress, House, Joint Committee on the Organization of the Congress, Hearings, Pursuant to S. Con. Res. 2, 89th Cong., 1st sess., 1965, Part II, pp. 1628-1629.

delegation to staff personnel. He then quoted Disraeli, "Are we to have a government of statesmen, or clerks?" Again, he emphasized that in the final analysis the individual congressman must study the issues and decide. He cannot delegate this responsibility.

The Chairman voiced complete satisfaction with the investigative staff of his Committee. He explained the temporary nature of the assistance from the Federal Bureau of Investigation in directing the Committee's Investigative Staff. Chairman Mahon further explained that his Committee pulled investigators from various agencies, including the General Accounting Office, and reimbursed their parent organizations for their services. When the task was completed, temporarily assigned investigators returned to their respective agencies and departments.

Chairman Mahon expressed little enthusiasm for the Joint Committee on the Budget. He charged that every key provision of the concept was unsound, unworkable or unnecessary. He reasoned that members of Congress do not have enough time as it is in order to accomplish all of their work, and thus, do not need another committee assignment. Also, as a super-committee, the Joint Committee would be just another layer through which the budget must be processed, without adding to the efficiency of the process. As an aside, Chairman Mahon noted the lack of attendance by members of the Joint Committee

during his testimony. Only half of the members were present at the time.

The Chairman expressed approval of the requirement for five year cost projections in the budget. Then noted that the Congress had required such five year cost projections since 1956. He felt the requirement was largely ignored due to the fact that substantive committees found the total costs of programs to be embarrassing.

Turning to the Executive Branch, Chairman Mahon observed that many advantages had accrued to the President in the budgetary process since the passage of the Budget and Accounting Act of 1921. He continued by noting the abortive effort to provide some of these advantages to Congress, in 1946, specifically a method of reviewing the budget as a whole, i.e., the Legislative Budget. He concluded by stating that the Legislative Budget should either be repealed or implemented by Congress.

The authorization delays in the appropriations process received his attention and he cited several examples of such delays. He concurred with the idea of updating the budget at mid-session.

Chairman Mahon cited "back door" financing as a major impediment to congressional control over executive expenditures. On the subject of "back door" financing, he said:

I think that one ought to be able to sit at the door of the Appropriations Committees and count the bills when they come out each year and total them up and say, "Congress has provided for this amount." But, if one should do this, he would be disillusioned, because while he sat at the front door, he would find at the back door, without any processing through the Appropriations Committee, vast sums, sometimes running into the billions, have been authorized for expenditure in bills out of other committees.⁸⁶

In noting the popular interest in changing the fiscal year to the calendar year, Chairman Mahon commented that the government used the calendar year until 1842. He agreed that it was something that the Joint Committee should look into and that, perhaps, the fiscal year should go back to January 1.

He complimented the Executive Branch, particularly the President, for economizing in the use of Federal funds. He suggested that the Executive was doing a much better job than the Congress in this regard. "While the President was turning off the lights to economize," Chairman Mahon testified, "Congress was turning the lights on again and putting in larger bulbs." He cited several examples of the extreme liberality and over-spending of the various substantive committees and noted that the President had threatened to impound some of the funds previously authorized as an economy measure.

Finally, on the question of assigning a greater role

⁸⁶Ibid., p. 1640.

to the General Accounting Office, Chairman Mahon noted that Congress had never appropriated funds to enable GAO to make expenditure analyses of the executive departments as authorized by the Legislative Reorganization Act of 1946. Chairman Mahon said that he believed the law contemplated a pre-appropriation budgetary review role for GAO. His comment was as follows:

About all I would say on it is that we probably should take care not to involve the GAO in the business of making detailed recommendations on pending budget requests. That might get them tangled - and mangled - politically. There are more profitable ways to exploit GAO facilities for congressional purposes. It might be well to consider repeal of the provision.⁸⁷

On the proposal to increase the use of electronic data processing equipment, as an aid to Congress, Chairman Mahon testified that he would be inclined to support any "reasonable and practical use of EDP." He emphasized that the feasibility of such use should be determined by impartial experts in the field.

This concludes the review of Chairman Mahon's testimony before the Joint Committee on the Organization of the Congress (the Monroney Committee) on August 17 and 24, 1965.⁸⁸

This concludes, as well, this Chapter on current reform legislation relating to the congressional phase of the

⁸⁷Ibid., p. 1660.

⁸⁸Ibid., pp. 1628-1760.

budgetary process.

The following Chapter evaluates prospects for reform.

CHAPTER VII

PROSPECTS AND CONCLUSION

The View From Congress

In a discussion of congressional reform, the view from Congress should really be the view from the House of Representatives. In the final analysis, it will be the House that decides whether there is to be a Legislative Reorganization Act of 1970, or 1971, or 1972. This report has shown that many reform measures have been passed by the Senate over the past several years. The House, on the other hand, has not been similarly inclined to embrace reform.

Congressmen, and here the term is restricted to its usual meaning as a title for members of the House, recognize flaws in the budgetary system. Some of these flaws are serious and require corrective action. Testimony before the various committees on reorganization and quotations elsewhere suggest that congressmen are hard pressed for time. There is no doubt that their responsibilities are great and there are many competing activities vying for their attention.

In The Congressman, His Work as He Sees It, a panel of congressmen expressed regret that more attention could not

be devoted to reform and the improvement of congressional methods and procedures. The panelists argued that the pressures of congressional responsibility were so great and the activity involved with reform movements so time-consuming, that only those items of direct and immediate concern could be acted upon. The panelists admitted that defects in congressional procedure, received their attention only when some major crisis focused on especially grievous or gross situations. The congressmen's collective appraisal of the House was favorable, and they believed, on balance, that the House was an effective institution. The congressmen, participating in the panel discussions, consistently mentioned the following strengths of the House as an effective legislative body:

1. the careful scrutiny given to all legislative proposals;
2. the generally high calibre and expertise of the membership and the salutary effects of specialization;
3. the so-called representativeness of the House, that is, the close relationship which exists between the congressman and his constituency; and,
4. the evolution of House structure and procedures which have served to facilitate the effective operation of a large, heterogeneous, and unwieldy body.⁸⁹

The House is acutely aware of unrest within its

⁸⁹Clapp, The Congressman, pp. 4-5.

membership and the criticism voiced by outsiders. Congressman Lawrence Coughlin (R. Pennsylvania) provided a thoughtful summary of the present situation and the need for change in his testimony before the Subcommittee on Legislative Reorganization. Congressman Coughlin testified as follows:

I am vitally interested in the ability of Congress to reform itself. It seems to me, Mr. Chairman, that many of today's pressing problems - poverty, taxes, and pollution, to cite a few - will not be solved or ameliorated unless the tools we use are updated to handle them. The last significant reform of Congress took place in 1946. Since then, fast moving events and developments have tended to diminish the effectiveness of many tools at the disposal of Congress. In order to preserve and augment the power and influence of the Legislative Branch of government in the years ahead, it seems to me that some of the ways that we go about our business must be changed. I believe that significant congressional reforms at this time will convince many of the skeptics in this country that our great system is fully capable of reforming itself through the democratic process.⁹⁰

The consensus of opinion among staff personnel seems to be that certain evolutionary procedural changes will take place. Anyone expecting major changes in procedures or power structure will be disappointed. Many of these staff people have had long and intimate involvement in and knowledge of the legislative process. As a group, the staff foresees little change occurring in the power structure, i.e., the seniority system and/or committee chairmen authority and influence. In fact, these same staff people voice the opinion that the traditional criticism which originates outside of

⁹⁰Legislative Reorganization Act of 1970, p. 160.

Congress is unfair and, in some cases, uninformed. In his evaluation of the criticisms and the prospects for reform, George Goodwin, Jr. writes as follows:

The realistic approach for a reformer, therefore, seems to lie along the lines of improving the system as it now operates.⁹¹

The urgency of congressional reform and the means necessary to accomplish the required reforms are strongly expressed by former Senator Joseph Clark in his book, Congress, The Sapless Branch:

One way or another the massive job of congressional reorganization and reform must get underway before it is too late and congressional government breaks down under the strain of modern pressures for action.

But, the truly fundamental reforms that are needed, those affecting directly the power structure of the Congress, can only be secured as a result of great pressures from outside Congress. Reforms of this magnitude require continuous, massive, popular insistence.

A majority of Congress is, in my view, prepared to support reform, and very substantial reform, if popular and Presidential demand is strong enough. The restoration of congressional capacity to act, and thereby the restoration of congressional prestige, is not only in the public interest, but also in the interest of Congress as an institution.⁹²

With all due respect to Senator Clark "substantial reform of the power structure" is not likely to happen. Though there was much testimony before the Subcommittee on Reorganization to the effect that the changes proposed in

⁹¹George Goodwin, Jr., "The Seniority System in Congress," The American Political Science Review, VIII, (June, 1959), pp. 412-436, reprinted in Congressional Reform - Problems and Prospects, edited by Joseph Clark, (New York: Thomas Y. Crowell Co., 1965), p. 206.

⁹²Joseph S. Clark, Congress: The Sapless Branch, (New York: Harper and Row, Publishers, 1964), pp. 210-246.

Title I of the Act did "not go far enough," the facts of the matter are that the possibility for substantial change is nil. The "young Turks," as the more radical and outspoken members of the House are referred, are not likely to be served in the immediate future. Congress is called, sometimes facetiously, "the World's Greatest Deliberative Body." The House leadership, with a decided conservative bent, presumably intends to keep it that way, and with specific emphasis on "deliberative."

If one accepts Congressman Bolling's definition of reorganization as meaning housekeeping, then a reorganization effort may be successful. But, if one chooses to think of reorganization as reform of the power structure, then he will be disappointed in the outcome. The power structure is most likely to remain intact. The House leadership and the committee chairmen are not about to vote to give any of their power away. Conversely, the junior members, though rash and outspoken, are not likely to try to take the power and, thereby, incur the displeasure of the leadership. The folly of the latter approach was manifestly demonstrated in mid-February when junior House members attempted to dethrone the Speaker. In that unhappy instance, the power structure arose to crush the junior up-rising somewhat unmercifully. When the chips were down, the votes were cast with the leadership.

The View from Outside

In a well-written and entertaining book, Obstacle Course on Capitol Hill, Robert Bendiner describes the historical trials and tribulations encountered in getting an Aid to Education bill through Congress. On the subject of reform, Mr. Bendiner concludes:

In fact, the remedies, most of them automatically suggested by the very ills they are intended to cure, have been advanced repeatedly and discussed exhaustively. They are the subject of dozens of books, scores of doctoral theses, and thousands of newspaper editorials, not to mention occasional speeches by mavericks in Congress and even more occasional inquiries by special committees, which it appoints to consider some of the more tepid approaches to reform.

Since there is nothing constitutionally prescribed, much less sacred, in the procedures of Congress, the remedies would seem, superficially, to be ready at hand.⁹³

Not all of the critics are demanding major reform measures relating to the power structure. A more reasonable, evolutionary approach is advocated by James A. Burnham. Mr. Burnham speaks of effecting technical improvements in congressional procedures. He would improve the information base and provide Congress with better tools for accomplishing its job. Mr. Burnham writes:

Not even the warmest admirer of Congress denies that its operations might, with advantage, be technically improved. Quite apart from theories about the proper

⁹³Robert Bendiner, Obstacle Course on Capitol Hill, (New York: McGraw-Hill Book Co., 1964), pp. 207-208.

place of the legislature, a change would be an improvement if through it Congress were enabled to do better whatever it might be that it was in fact doing. For example, nearly everyone will agree that any change enabling Congress to know more about what it is doing is an improvement.

If Congress is to continue to have even a minor voice in matters of the public purse, it needs a clearer, more systematic knowledge of expenditures than it now possesses.

In any case, such merely technical reforms should be carefully distinguished from proposed changes that would, if carried out, affect not simply Congress' methods of operating but its political essence, and in particular its basic political relations to other branches in government and to the electorate.⁹⁴

Prospects for Reform

The Subcommittee on Legislative Reorganization of the House Rules Committee has worked hard during the hearings and the drafting of the Legislative Reorganization Act of 1970. As a result of these herculean efforts, a recommendation will be forthcoming to the full Rules Committee. The bill, when eventually reported out, will not contain any drastic reforms. Title I, relating to committee structure and procedures, will cause the greatest flurry of excitement, but it too will have been modified considerably. No major threat will be posed to the existing power structure. The Rules Committee may decide to isolate Title I and report it

⁹⁴James A. Burnham, "The Case for Congress," Congress and the American Tradition, (Chicago: Henry Regnery Company, 1959), pp. 262-278, reprinted in Congressional Reform-Problems and Prospects, edited by Joseph Clark, (New York: Thomas Y. Crowell Co., 1965), p. 37.

separately under a "closed rule." That is, no amendments on the floor would be allowed. The House leadership would not be rational to expose House Rules (and power structure) to a frontal attack from the floor. If reported under an "open rule," the bill would be vulnerable to amendments from the floor, and this could be chaotic.

Title II will be reported out in a form relatively free from controversy. Title II, Part 6, which provides for the change in fiscal year dates, will probably be deleted before the bill is reported out. This prediction is based on the fact that the Chairman of the House Appropriations Committee objected to the proposal. The Chairman testified before the Subcommittee in "closed" session, so there is no way of knowing precisely the tone of his statements. However, references by Chairman Sisk to "substantial members of the House Appropriations Committee" and Congressman Young to "the Chairman of the House Appropriations Committee" as having objections to the fiscal year change are conclusive enough to kill the proposal. The House Rules Committee is not likely to report a bill containing fiscal controls objected to by the Chairman of the Appropriations Committee.

The influence of the House Appropriations Committee will be obvious in other areas as well. Title II, no doubt, will contain permissive language regarding the joint hearings on the executive budget at the beginning of each session.

In contrast to the Senate bill which provides for joint hearings on the budget within thirty days, the House version will more likely provide that such joint hearings may be held. Then, the measure will leave the procedural details to be worked out between the Appropriations Committees, but, the joint hearings are not likely to come to fruition. This apparent obstinence on the part of the House Appropriations Committee, with regard to reform legislation, is predicated on its constitutional responsibilities as perceived by committee members. The Committee firmly believes that substantive committees habitually over-spend Federal funds and the Senate, in their opinion, is even worse than the House. Accordingly, Appropriations members feel that it is their primary and constitutional duty to protect the Treasury and to enforce economy and efficiency in Federal spending. This quest for economy becomes almost, if not in reality, a religious vocation.

Richard Fenno offers the following rationale for House objection to budgetary reform:

To the degree that House Committee members believe that they now enjoy pre-eminence, they will oppose changes in the appropriations process which they perceive as increasing the relative influence of the Senate. And they weigh every proposed budgetary reform in exactly these terms.⁹⁵

⁹⁵Richard F. Fenno, Jr., The Power of the Purse - Appropriations Politics in Congress, (Boston: Little, Brown and Company, 1966), pp. 628-629.

Title II, it is predicted, will contain specific language establishing the House position concerning the proper role for the General Accounting Office. Earlier, it was shown that the Senate has long advocated an expended role for GAO, extending into executive budget review. The House and the Comptroller General have historically resisted efforts to assign the GAO these additional pre-appropriations duties. The House generally, and the House Appropriations Committee specifically, have steadfastly maintained that GAO could be put to better use elsewhere. Accordingly, the bill, when reported out, will probably assign these additional duties to the Secretary of the Treasury and the Director of the Bureau of the Budget, with the General Accounting Office in a cooperating or advisory role.

The bill probably will contain a requirement for life-of-project or up to five year cost estimates in committee reports and, no doubt, the impetus towards encouraging maximum annual appropriations review will be continued.

Conclusion

The conclusion of a report of this type should be the easiest part. In the present instance, such is not the case. In essence, there is no conclusion. Neither the House nor the Senate has yet worked its will on the matter of

congressional reform. The Subcommittee on Legislative Reorganization has not reported its findings and recommendations to the full Rules Committee. After the Subcommittee reports, the full Rules Committee may accept the recommendations of the Subcommittee, or it may decide to hold further hearings of its own. The full Committee may decide to rewrite the bill without holding further hearings. In any event, this report does not pretend to prescience concerning the future actions of the Rules Committee or individual congressmen. An informed staff member granted the Legislative Reorganization bill a fifty/fifty chance of being reported to the House floor. This, in itself, would be a first and a victory for the Subcommittee. Another staff member, evidencing long involvement and much hard work on the bill, stated, "If the bill does not go to the floor this session, everything in this office will be burned." A threat delivered with a smile, of course.

1970 is an election year for many congressmen. Congressional reform has received much publicity. Both House and Senate leaders have been subjected to a great deal of criticism in the news media. The Wall Street Journal characterized the Speaker of the House as lacking vigor and described the Majority Leader as being too gentle.⁹⁶ This was one of

⁹⁶Arlen J. Large, "Clogging the Federal Money Machine," Wall Street Journal, November 25, 1969, p. 22.

the softer slams at congressional leadership over the past several months. As a result of this increasing criticism and growing public awareness and interest, the leadership will insist on a reform/reorganization bill of some description during this pre-election session. The bill may very well be emasculated beyond recognition by the time it reaches the floor, but a Reorganization Act of 1970 will be enacted.

Recommendations for change which have as their primary purpose technical improvements in congressional procedures have much merit. Such improvements are urgently needed and, no doubt, will be accepted and used by Congress.

However, before accepting proposals for drastically streamlining and automating Congress, perhaps additional examination is required of the constitutional purpose of Congress. With the Executive and Judicial Branches of government often advocating expansion in Federal programs and activities, and with a growing liberalism in certain sectors of society, perhaps an appropriate balance of power or check rests with the Legislative Branch. Congress has often been referred to as the last remaining stronghold of conservatism - particularly, the House of Representatives. It would seem judicious, therefore, that careful and deliberate thought would be in order prior to subjecting this body to reforms or changes which would counter the constitutional check and balance system of the Federal government.

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